

## Family Dispute Resolution Information Guide

### What is Family Dispute Resolution (FDR)?

FDR is a type of mediation that provides people who are in conflict regarding parenting or property issues with an effective method of resolving their disagreements. FDR is a relatively low-cost and time effective alternative to the often expensive, time consuming and stressful legal processes.

Research shows that children cope better with separating parents if their parents can find a way to co-operate about parenting. The FDR process can be used to establish a respectful co-parenting relationship after separation.

FDR requires all parties to the dispute to make a genuine effort to work towards overcoming disagreements and building workable agreements for the future.

### Issues Addressed in FDR

During and after separation there are a range of matters that people need to resolve for the benefit of their children and themselves. For parents, these include care and education arrangements for the children, achieving effective communication with each other and with their children, child support, health care and a range of other parenting issues. Financial and property settlement is another common area that can be addressed in FDR.

### What Happens During FDR?

**First**, individual intake assessment appointments are scheduled with each person to clarify what you would like to discuss in mediation and for your FDR Practitioner to explain in detail how the process works. These meetings also provide your FDR Practitioner with an opportunity to assess whether or not FDR is suitable for your situation. Your FDR Practitioner has an obligation to ensure that the parties are able to negotiate freely and that participation in the FDR process does not place anyone at risk.

**Second**, if FDR is assessed as suitable you will need to take some time to prepare the joint FDR session. It is recommended that both parties seek legal advice before making any decisions regarding their situation. You may also like to seek financial advice prior to FDR if your dispute concerns property and financial matters.

**Joint FDR session**, when both parties are ready FDR sessions are scheduled at an agreed time for approximately three hours. This allows sufficient time for issues to be fully discussed and explored. Sessions often include breaks and times when each party can speak privately and confidentially with the FDR Practitioner.

In some cases, more than one three hour session is needed to work through all of the issues that parties want to discuss in FDR. The number of sessions needed will depend on the

number of issues to be discussed, their complexity and the extent of the disagreement. This is most common in property mediations where the pool of assets are not agreed.

### **Reaching Agreements**

Agreements reached in FDR can be written or verbal. Your FDR Practitioner can provide a copy of your agreements in writing. For parenting matters, if this document is signed and dated by both parties then it becomes a 'Parenting Plan'. Your FDR Practitioner will provide more information about the additional steps required to make agreements legally binding at your intake assessment session and during your joint FDR session.

### **Safety**

It is important that you feel safe before, during and after FDR.

If you have any concerns about your safety or the safety of your children, please let your FDR Practitioner know as soon as possible. This may mean that FDR stops or does not proceed. Alternatively, if the parties agree, they can participate in FDR without being in the same room. This is known as a 'shuttle mediation' where your FDR Practitioner will 'shuttle' between two separate rooms and facilitate the FDR process.

There is no requirement to undertake FDR if there has been family violence or child abuse.

### **Support People**

If both parties agree, either one or both of you may elect to bring a support person with you to the joint FDR session. The support person could be a family member, close friend or social worker.

In most cases the support person will not actively participate in the discussions, but can provide you with emotional support beforehand, during breaks and after the session.

If you would like to bring a support person with you, you will need to advise your FDR Practitioner at least seven days before your joint FDR session is scheduled to occur, so that there is time to obtain consent from all involved.

Any support people who attend will be required to sign a confidentiality agreement prior to the commencement of the joint FDR session.

### **Legally Assisted FDR**

Legally assisted FDR is an option to assist parties who have been unable to reach agreement in FDR and who need to be able to access advice during the session to be able to move forward. As such, it is not the initial approach that Family First Mediation and Dispute Resolution takes. This is because it is important that parties show a genuine desire and commitment to negotiate an outcome prior to inviting lawyers. However, a legally assisted FDR session can be discussed with your FDR Practitioner at your initial assessment session. It is important to understand that a legally assisted FDR session must be agreed to by both parties. Further information is available to parties considering legally assisted FDR.

## **Involvement of Children in FDR**

Family First Mediation and Dispute Resolution is a child-focused practice. This means that your FDR Practitioner will adopt a child-focused approach throughout the FDR process by seeking to understand your child/ren's unique needs and will encourage everyone to stay focused on reaching agreements that are in the **best interests** of the child/ren.

In some cases, it may be appropriate for the child/ren to have a 'voice' in the FDR process, without needing to be present in the room or to make any decisions. In these cases, the child/ren can meet with a trained Child Consultant in a separate session that typically takes approximately one hour per child.

The Child Consultant will spend time doing activities and talking with the child/ren. The child/ren are **never** pressured to answer any question and are **not** asked to make any decisions or to experience the feeling of having to 'choose' between parents. They are simply given the opportunity to share 'what it's like to be me, in my family, at this point in time'. Special care is taken to provide an environment that feels welcoming and safe.

On another separate occasion, the Child Consultant will come to the FDR session to talk with the parents and your FDR Practitioner about how the child/ren are doing and what their needs seem to be at this point in their development. The Child Consultant will respect any concerns that the child/ren may express about reporting back on sensitive matters.

If the child/ren are already supported by a psychologist or participating in Family Therapy, it may be more appropriate for the therapist to fulfil the role of the Child Consultant in the FDR process (if the therapists feels it would be appropriate). This will minimise the need for the child/ren to engage with another professional.

It is important to understand that this process must be agreed to by both parents and the proposed Child Consultant.

Child Consultants charge their own separate fees and payment is to be arranged with the chosen Child Consultant.

## **Legal Advice**

We recommend that you obtain independent legal advice before, during and after FDR. It is important to get advice from a professional who is experienced in the matters in dispute, such as an accredited Family Law specialist or Community Legal Centre. Your FDR Practitioner is not able to give you legal advice.

## **Participation in FDR is Voluntary**

Either party can choose not to participate or to withdraw from the FDR process at any point.

It is always important to seek professional legal advice before deciding not to participate in FDR. In most cases, parties who wish to initiate legal proceedings for parenting matters are required to file a Section 60I certificate with their application.

Your FDR Practitioner is a registered FDR Practitioner and is therefore able to issue a s.60I certificate. If either parent decides they want to start court proceedings, they can request a s.60I certificate that identifies that one of the following reasons why FDR was not possible:

- One/both parties did not attend FDR because the other party or parties to the proceedings failed to attend or refused to attend FDR;
- One/both parties did not attend FDR because the FDR Practitioner did not think that it was appropriate for them to do so;
- One/both parties attended FDR and made a genuine effort to resolve the issue or issues;
- One/both parties attended FDR but did not make a genuine effort to resolve the issue or issues; or
- One/both parties began attending FDR but the FDR Practitioner did not think that it was appropriate for them to continue to do so.

It is important to note that the Court may consider the reasons shown on the s.60I certificate when considering whether to make an order for the parties to attend FDR or to award costs against a party for failing to or refusing to attend FDR.

### **Your FDR Practitioner**

FDR Practitioners are impartial third parties who facilitate the parties having a discussion about the issues in dispute. Your FDR Practitioner has completed a Graduate Diploma of Family Dispute Resolution, is a Nationally Accredited FDR Practitioner and has many years of experience working in family law.

In most cases, a single FDR Practitioner will facilitate the sessions. However, on occasions, it may be determined that two FDR Practitioners are required to facilitate the process. Where appropriate and possible, this is usually gender-balanced (i.e. one male and one female FDR Practitioner).

### **Fees and Cancellation Policy**

We charge a fee for the steps in each stage of the FDR process. This ensures that there are no unexpected costs or surprises.

The fees for each stage are charged upfront and **payment is due within 48 hours of your invoice being issued**. Once payment is received an appointment date and time will be confirmed.

Cancellation requires a **minimum of 48 hours' notice**. In the event of cancellation without the required notice provided you will forfeit 50% of your paid fees.

In the event of non-attendance, the defaulting party will forfeit the full fee paid and the other party will be issued with a section 60I certificate based on a 'failure to attend' if requested.

### **1. Intake Assessment**

We meet with each party individually to assess whether the dispute is suitable for FDR and plan the best structure to enhance the likelihood of reaching positive outcomes. We help you to understand the FDR process, prepare the information you will need, and provide guidance on how to manage the emotions and challenges of the FDR process.

The fee per person for the **Intake Assessment** process is \$300. This includes the Intake appointment, other preparatory discussions as required, case management and issuing a s.60I certificate, if needed.

### **2. Joint FDR session**

This involves a structured, facilitated session identifying the issues and working through them systematically. Issues are identified, options generated, and agreements captured. We take notes and provide all parties with a copy of any agreements reached.

The **fee per person** for each FDR session for **parenting matters** is \$500. This includes a three-hour joint FDR session as well as a follow up phone call with each party following the session. When the session length is extended, a rate of \$120 per hour is charged per party, however sessions will not exceed 4 hours on any given day.

The **fee per person** for each FDR session for **property matters** is \$650. This includes a three-hour joint FDR session and the use of an interactive family law balance sheet to ensure settlement figures are accurate. If there is disagreement about the value of property two three-hour sessions will be required to be booked to ensure all valuations can be obtained.

The fee for a professionally typed Parenting Plan is \$350. This fee is per matter.

### **Locations and Appointment Times**

Our FDR service can be provided at a range of locations. A small fee will be charged to cover the costs of hiring a meeting room if the joint FDR session occurs in person. The cost will depend on the pricing set by the office service, the size of the room required, and the length of time required for each session. Costs are generally in the range of \$40 - \$60 per hour.

All FDR sessions can occur by telephone or via video conferencing which provides you with more flexibility around work and life commitments and saves you on the cost of hiring a meeting room.

### **Other Support Services**

Your FDR Practitioner will be able to refer you to appropriate support services as required. There is also a government site that assists people to navigate separation and the family law system. This information can be found at: [www.australia.gov.au/familyrelationships](http://www.australia.gov.au/familyrelationships)



## **Other Questions**

If you have further questions, please contact us or speak to your FDR Practitioner at your first appointment.

## **Feedback and Complaints Handling**

Our Principal FDR Practitioner is a member of the Resolution Institute. Any feedback or complaints can be forwarded to [www.resolution.institute](http://www.resolution.institute)