



Australian Government

mediation  
**resolve**  
confidential differences  
neutral child-focused safe  
agreement

# Family Dispute Resolution

The Australian Government funds Family Dispute Resolution services to help Australian families discuss and agree upon arrangements that meet the best interests of their children without going to court.

## What is Family Dispute Resolution (FDR)?

Family Dispute Resolution (FDR) is the legal term for services (such as mediation) that help people affected by separation or divorce to sort out family disputes. FDR can help people to agree on a range of issues relating to property, money, and most importantly – their children.

FDR services are provided by a range of individuals and organisations, for example, Family Relationship Centres, community organisations, legal aid commissions, and individuals such as lawyers, social workers or psychologists. If you are in a remote area, you may access FDR services, for example, via telephone.

## Is FDR compulsory?

To apply to a family law court for a Parenting Order you need to have a certificate issued by an FDR practitioner, unless where one or more of the following exceptions apply:

- you are applying for Consent Orders
- you are responding to an application
- the matter is urgent
- there has been, or there is a risk of, family violence or child abuse
- a party is unable to participate effectively (eg: due to incapacity), or
- a person had contravened and shown a serious disregard to a court order made in the last 12 months.

The requirement to participate in FDR applies to new applications, and applications seeking changes to an existing Parenting Order. Certificates can only be given by FDR practitioners accredited under the Family Law (Family Dispute Resolution Practitioners) Regulations 2008.

## **Why try FDR?**

FDR can help, for example, you and your former spouse or partner to agree on solutions that suit both of you – and your children. It's practical, confidential, and it works!

You should try FDR before you go to court. If you can resolve your differences you'll save time, money and a whole lot of stress. For FDR to work, both sides have to give it a fair go.

## **What information will an FDR practitioner provide me with?**

Before you start FDR, your FDR practitioner must tell you about the FDR process, your rights (including your right to complain about the service), his or her qualifications, and fees charged. If you are trying to resolve a disagreement about your children, the FDR practitioner must give you information about parenting plans and other services to help you.

## **Who can go to FDR?**

The people having the disagreement need to be involved in the FDR process. If it is appropriate, you can bring family members or a support person with you, including your lawyer. However, attendance of lawyers at FDR services is at the discretion of the service provider. If you are planning to bring your lawyer with you, you should discuss this with the FDR service provider as early as possible.

## **Will my child be included in FDR?**

No, but depending on your circumstances and a range of factors such as the age and maturity of your child, a family counsellor or child psychologist may talk with your child. This will only happen with parental consent.

## **What happens during FDR?**

Before FDR can commence, an assessment will be made to see whether FDR is suitable for your situation. FDR practitioners are impartial and will not take sides. They can help you to explore family issues in an objective and positive way. Unlike counselling, FDR doesn't focus on the emotional side of relationships. It concentrates on resolving specific disputes.

You are encouraged to make a genuine effort to try to resolve the dispute with the help of the FDR practitioner.

FDR can help both of you to discuss issues, look at options, and work out how best to reach agreement. Importantly, you can use FDR to develop a parenting plan to set out arrangements for your children. An FDR practitioner will also check that everyone understands what is being said and agreed upon.

When FDR isn't working, the FDR practitioner can suggest other options, such as family counselling.

## **What if you are feeling 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 the staff at the FDR service 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 will it cost?**

FDR can be quicker and cheaper than going to court or paying legal fees. FDR services may charge fees according to your financial circumstances. You should let the FDR service know if you are on a low income or experiencing financial difficulties.

## **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 happens to any agreement reached at FDR?**

If you reach an agreement on arrangements for your children, this can be recorded as a parenting plan. A parenting plan must be in writing, dated and signed by both parents. Your agreement or parenting plan can include mechanisms to change arrangements and resolve disagreements. Parenting plans can be renegotiated over time, if necessary.

Be aware that any changes to the care arrangements for your children can affect child support, income support, and family assistance payments. Special rules apply about including child support in your parenting plan. For example, if your parenting plan specifies amounts for child support, Child Support cannot enforce it unless it is also a valid child support agreement, and you or the other parent ask Child Support to accept it.

If you want to make your final parenting plan agreement about your property/financial arrangements legally binding, you can apply to the court to have your agreement made into a Consent Order. You can do this yourself or ask your lawyer to do it for you.

## What if FDR doesn't work?

Even if you can't reach agreement, FDR may help, for example, you and your former spouse or partner communicate better. If you try FDR but still need to go to court for a Parenting Order, you will need a certificate from an accredited FDR practitioner.

The certificate will say one of the following:

- 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
- the other party did not attend
- 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.

You should also be aware that if you don't attend FDR or make a genuine effort to attend, this can influence the timing of your hearing in court. The court may also order you to pay the other party's legal costs.

## How do I contact an accredited FDR practitioner?

For more information call the Family Relationship Advice Line on **1800 050 321** between **8am to 8pm Monday to Friday** and **10am to 4pm Saturdays** (except national public holidays).

You can also visit Family Relationships Online at [www.familyrelationships.gov.au](http://www.familyrelationships.gov.au)

For more information about Child Support visit [www.humanservices.gov.au](http://www.humanservices.gov.au)