

## Information Statement - Family Dispute Resolution

Welcome to Relationships Australia Victoria (RAV). Please read the following information carefully.

This statement sets out important information about family dispute resolution as practised by RAV and includes necessary information for clients required by the *Family Law Act 1975* and the *Family Law (Family Dispute Resolution Practitioners) Regulations 2008*.

### What is “family dispute resolution”?

1. Under the *Family Law Act 1975* (the Act), family dispute resolution (FDR) is defined as a process in which a family dispute resolution practitioner (the practitioner) helps people affected by separation or divorce to try to resolve some or all of their disputes with each other; and in which the practitioner is independent of all the parties.
2. In the FDR process, the people involved, with the assistance of the practitioner:
  - a. isolate issues in the dispute
  - b. develop and consider options to resolve those issue
  - c. if appropriate - attempt to agree to one or more of those options
  - d. if a child is affected - attempt to agree to options that are in the best interests of the child(ren).
3. In discussions involving the welfare of children, the practitioner may, if appropriate to do so, adopt a more advisory role in order to help clients keep the best interests of their child(ren) as their primary consideration, consistent with the principles of the Act. It is not the role of the practitioner to provide specific legal advice, but the practitioner may provide general legal information and information about parenting arrangements following separation.
4. When a court considers what is in a child’s best interests, its primary considerations are:
  - a. the benefit to the child(ren) of having a meaningful relationship with both parents;
  - b. the need to protect the child from physical or psychological harm or from being subjected to, or exposed to, abuse, neglect or family violence.

In applying these considerations, a court must give greater weight, when necessary, to the consideration in paragraph 4b. “Family violence” means violent, threatening or other behaviour that coerces or controls a family member, or causes a family member to be fearful.

Amongst many additional considerations for the court are:

- c. any views the child has expressed (depending on the child’s maturity and level of understanding)
- d. the child’s relationship with both of their parents and other people significant to them (such as their grandparents)
- e. any practical difficulties in the way the parenting arrangements work.

Under the Act, if FDR practitioners are giving advice or assistance about matters concerning children, they are required, when necessary, to encourage parties to give priority to the consideration in paragraph 4b.

5. FDR may not be appropriate for all disputes, particularly if one person is unable to negotiate freely because of another’s threats, violence or aggressive behaviour. If you have any concerns, please discuss these with your practitioner. If there is an Intervention Order, you must show your practitioner the document to confirm that a joint appointment is permitted under the terms of the Order. You have the right to feel safe and you should feel that you are able to participate in the process.

## What other important aspects of family dispute resolution should I know about?

6. **Practitioners are unbiased and independent.** They will be impartial in all contacts with participants in the process and will not support the interests of one person over another, aside from a general commitment to the best interests of the child(ren). They will inform you of any interests or bias that may be relevant to the matters under discussion.
7. **Full disclosure** of all relevant information is essential to the dispute resolution process and you must, therefore, fully and honestly disclose all financial and personal information and documents relevant to the matters under discussion.
8. Before family dispute resolution begins, the **practitioner is required to assess whether the process is appropriate.** They will see each person separately to assess whether it is, and, if it is, to decide how the process might be conducted most effectively. They may also see each person separately during the process, if it is considered that it may be helpful and also to ensure that the process remains appropriate.
9. **You have the right to obtain legal advice** at any stage in the dispute resolution process. It is strongly recommended that you obtain legal advice before signing any legally binding agreement.
10. Bearing in mind paragraph 19 (see page 4), **you may withdraw from the dispute resolution process at any time.** In addition, the practitioner may suspend or terminate the process at any time if they consider that it is no longer appropriate.
11. Agreements reached during the process and any written summary are **not legally binding**, but you or your lawyer can make them legally binding by following the relevant court rules and procedures.

## Confidentiality and disclosure

12. The practitioner will ensure that everything discussed in the FDR process remains confidential:
  - a. except as noted below; or
  - b. unless a court orders a practitioner to disclose; or
  - c. unless all parties consent to the disclosure.

However, the practitioner must disclose any communication or admission made to them in their professional capacity if they reasonably believe the disclosure is necessary to comply with any law of the Commonwealth, or a state or territory. Under the Act, the practitioner must report to a child welfare authority (in Victoria, the Department of Human Services) if they have a reasonable basis for suspecting child abuse\* or risk of child abuse.

They also may report ill-treatment or neglect of a child or exposure of a child to psychologically harmful behaviour, and may disclose information if they reasonably believe it is necessary:

- d. to protect a child from the risk of harm (whether physical or psychological)
- e. to prevent or lessen a serious and imminent threat to:
  - i. the life or health of a person
  - ii. the property of a person
- f. to report the commission, or prevent the likely commission, of an offence involving:
  - i. violence or a threat of violence to a person
  - ii. intentional damage or threat of damage to property
- g. in cases where a lawyer independently represents a child's interests under an order under section 68L of the Act – to assist the lawyer to do so properly.

\* Please note that "abuse", in relation to a child, is defined in the Act to mean:

- h. an assault, including a sexual assault, of the child
- i. sexual exploitation

- j. causing the child to suffer serious psychological harm, including (but not limited to) when that harm is caused by the child being subjected to, or exposed to, family violence
- k. serious neglect.

### Parental responsibility, child(ren)'s best interests and parenting plans

13. If the dispute involves your child, then under the Act, unless the court has made orders to the contrary:
- a. you each have parental responsibility for your child(ren)
  - b. the best interests of your child(ren) are the paramount consideration in any decision that affects them;
  - c. if you wish to give legal effect to decisions made in FDR, you need to file an application, either yourselves or through your lawyers, for proposed orders by consent (Consent Orders). Alternatively, you may both sign and date a parenting plan which, although not legally enforceable, may be taken into account by a court in any future legal proceedings, if the court considers it is in your child(ren)'s best interests to do so. For further information about parenting plans, refer to the document 'Parenting Plans' published by the Australian Government and forwarded separately.

### Inadmissibility

14. Evidence of anything said, or any admission made, by or in the company of an FDR practitioner while conducting FDR, is not generally admissible as evidence in any legal proceedings under the Act. This also applies to anything said by, or in the company of, a professional to whom you or your child(ren) may be referred during the FDR process.

However, if there is an admission by an adult or a disclosure by a child, that indicates that a child has been abused (see paragraph 12h) or is at risk of abuse, then that admission or disclosure may be admissible as evidence in legal proceedings under the Act.

### What are the qualifications of the practitioners?

15. FDR practitioners at RAV are authorised to offer FDR on RAV's behalf. They are accredited under the Accreditation Rules referred to in s.10A of the Act and registered as FDR practitioners in the register maintained by the Commonwealth Attorney-General's Department. Specific qualifications of the practitioner(s) will be provided before any dispute resolution process begins.

### How much will the process cost?

16. Fees will be negotiated in accordance with the scale of fees provided separately. Fees are paid at the end of each session, unless otherwise negotiated with the practitioner. No charge will be made for postponements or cancellations if 24 hours' (one working day) notice is given. If less notice is given, a fee will be charged as the appointment cannot be filled at short notice.

### Provision of other information by practitioners

17. The practitioner is required to provide documentation about services to assist a married couple to consider reconciliation, unless the documentation has already been provided or reconciliation is not a reasonable possibility.
18. If the practitioner is advising you about matters that may become part of a parenting plan for your child, then under the Act, the practitioner is required to provide you with certain information about parenting arrangements you could consider and the legal implications of signing a parenting plan. (Refer to the 'Parenting Plans' document mentioned above).

### Compulsory FDR and certificates

19. Since July 2007, FDR has been compulsory for those persons intending to make an application to court in relation to children. Some exceptions apply, of which the most common are matters involving child abuse, family violence, and urgency. Aside from the exceptions, applicants to court will need to present a certificate from a registered FDR practitioner.

There are five types of certificate. The practitioner may certify one of the following:

- One of the parties refused or failed to attend FDR.
- FDR was not considered appropriate, following assessment.
- Both parties attended FDR and made a genuine effort to resolve the dispute(s).
- Both parties attended FDR but one or both parties did not make a genuine effort to resolve the dispute(s).
- Both parties attended FDR but the practitioner considered it would not be appropriate to continue the FDR process.

These certificates are issued at the discretion of the practitioner, and only upon request. When issued, a copy is routinely forwarded to the other party.

### Complaints

20. RAV is committed to providing high quality, effective services that support Victorians, and we value and welcome feedback from our clients on their experiences as it helps us improve these services.

If you are dissatisfied with any aspect of the service you have received and wish to express a concern or make a complaint, two initial processes are available, as outlined in our Client Complaints policy and procedures.

(i) Any concern involving a practitioner may be raised directly with the practitioner.

(ii) A complaint may be made directly to the Centre Manager, either orally or in writing.

If a complaint remains unresolved, the Complaints Officer may review, investigate and respond to the complaint.

If you are not satisfied by the way that RAV has managed your complaint, you can contact the Department of Social Services.

Phone 1800 634 035  
 Fax (02) 6133 8442  
 Email [complaints@dss.gov.au](mailto:complaints@dss.gov.au)  
 Post Department of Social Services  
 Feedback Co-ordination Team  
 PO Box 7576  
 Canberra Business Centre  
 ACT 2610

### Feedback and suggestions

21. We also welcome any suggestions you may have to improve our service. Suggestions boxes are in the foyers of all our centres. We encourage you to share your feedback by completing one of our forms available at reception or in the waiting room.

### Recordings and observations

22. To help us ensure that our services are of the highest quality, the practitioner may request your written permission to record an appointment, using visual/audio recording equipment, for professional supervision or related purposes. Recording an appointment for this purpose provides an opportunity for feedback or reflection for professional staff. All recordings are deleted once the supervision, reflection or feedback has occurred.

**Recording of an appointment/session or any other communication with a RAV employee, using any form of electronic device, is not permitted unless:**

- there are special circumstances, and
- you have the written approval of the practitioner, and
- all persons being recorded have knowledge and provide consent before being recorded.

### Telephone and Video (Zoom) FDR

23. If participating in FDR remotely, you will need to be in a private place so that conversations remain confidential and cannot be overheard by children or other adults (except an agreed Support Person). This is a condition of participation in both telephone and video FDR.

### Acknowledgement

I acknowledge that I have received and read this Information Statement.

Where children's matters are involved, I also acknowledge that I have received and read the 'Parenting Plans' document, provided separately.

Name (print) \_\_\_\_\_

Signed \_\_\_\_\_

Date: \_\_\_\_\_

We greatly prefer clients to provide this written acknowledgement before the date of the first FDR session, either by returning this document signed and dated, acknowledging via email.

Where this has not occurred, the practitioner will check at the start of the session that the documents have been read.

#### Office use only — Verbal Acknowledgement

\_\_\_\_\_ acknowledges that they have received and read this FDR Information Statement. Where children's matters are involved, they also acknowledge that they have received and read a copy of the 'Parenting Plans' document, provided separately.

Name of practitioner:

\_\_\_\_\_

Date of verbal acknowledgement:

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