

Your Guide to Family Dispute Resolution

Family Dispute Resolution

Family Dispute Resolution (FDR) is the legal term for family mediation, a process for people who want to resolve issues that come under the Family Law Act.

FDR is suitable to resolve disputes and other legal requirements that arise post-separation, including parenting arrangements, children's living arrangements, property settlements and a wide variety of other issues that affect families at this time.

Mediation is a confidential¹ and private solution to help you and your ex-partner to work through issues in a professional and safe manner, explore options and agree on the best way forward; for you, your family, and most importantly – your children.

Benefits of Family Dispute Resolution

FDR has many benefits to you and your ex-partner over other litigious pathways.

Family mediation can help you and your ex-partner work through your issues in a confidential and private setting, unlike a public court room.

In mediation, you are each responsible for the decisions you make, unlike decisions imposed on you by a third party (Judge).

With the help of your family dispute practitioner, you will be encouraged to discuss a wide variety of issues that are important to you and your family, and to be future-focused.

Mediation is a cost-effective, time-efficient and confidential alternative to court proceedings.

Mediation provides valuable insights into each other's points of view and concerns, helping foster productive working relationships, and better buy-in with agreements reached.

Role of the Practitioner

Your Family Dispute Resolution Practitioner (FDRP) is an independent, neutral, impartial professional who guides you through the mediation process. This includes setting out the process and guidelines, treating all parties fairly and equally.

Your mediator is a qualified Family Dispute Resolution Practitioner, registered with the Federal Attorney-General's department; is a nationally accredited mediator and a Professional Member of the Resolution Institute, Australia.

It is not the role of the mediator to provide any legal advice or make decisions as to who is right or wrong. Rather, we will assist you work through your disputes and make your own decisions on what is in the best interests of your children.

Family Dispute Resolution Process

The process can be summarised as follows:

1. Preliminary Meeting (60-90mins)

The first step is for the mediator to meet with each person separately, for a confidential meeting. This meeting will allow you to share your concerns and to ask any questions you might have.

The mediator will also be considering the suitability of mediation and any variations or safety concerns that needs to be considered. It is recommended that people seek independent legal advice prior to mediation.

The mediator will spend time becoming familiar with your family history and specific circumstances, in order to assist you explore your options moving forward.

Finally, the mediator will workshop with you how mediation may play out, reality test your initial assumptions and options, and generally help prepare you for mediation.

¹. Refer to page 3 for further information on confidentiality and inadmissibility.

maxwell parker

CONFLICT CONSULTING

Family Dispute Resolution Process

2. Mediation

The mediation takes place in a suitable venue that typically includes a boardroom style room, together with a separate breakout meeting room to cater for private retreat and one-on-one sessions.

Other options are available and include: shuttle mediation (each person remains in a private room of their own), and secure web-based mediations.

Mediations commence with each party sharing their story or concerns with the other. This is an opportunity for each party to speak uninterrupted and for the other party to listen to the other's point of view.

An agenda is then agreed on to focus discussions, explore interests and consider underlying needs. Further group discussions continue to explore each other's concerns and start to consider options going forward.

Private sessions between the mediator and individuals will take place and will also be used for breaks when required. Private sessions are confidential and discussions will not be shared by the mediator.

The next phase of mediation focusses on generating ideas and proposals, negotiating and reality testing assumptions. Should an agreement be reached, these will typically be documented by the mediator on behalf of the parties.

Mediation is voluntary and parties, including the mediator, are free to discontinue the mediation at any point should they no longer feel it is appropriate, productive or safe to continue.

Outcomes at mediation can range from:

- (a) no agreement (with enhanced understanding of each other's concerns or views).
- (b) a verbal or goodwill agreement, only.
- (c) a Parenting Plan that is documented, signed and dated. A parenting plan can be reviewed and updated periodically, as required or agreed.
- (d) Consent Orders, using a nominated lawyer to convert your plan into orders for the Court to endorse.

About Your Practitioner

Matthew Maxwell, Principal of Maxwell Parker Conflict Consulting is a qualified Family Dispute Resolution Practitioner (FDRP), registered with the Attorney-General's Department. Matthew is also a nationally accredited mediator (NMAS) and a Professional member of the Resolution Institute.

Matthew's qualifications include a Grad. Dip. Family Dispute Resolution and is authorised to issue certificates under Section 60I of the Family Law Act 1975.

In addition to his Family Dispute Resolution studies, Matthew has over 20 years experience working for several of Australia's leading banks, specialising in the management of troublesome or impaired rural and regional clients. Clients ranged from large commercial clients, small to medium sized family businesses and individuals. Matthew is well equipped to deal with a wide range of issues, including large business and family disputes, complex property settlements as well as all post-separation matters.

Matthew now resides in Kiama, NSW with his wife and 2 young children. As a solution-focussed facilitative mediator, Matthew works closely with his clients to explore outcomes that are in the best interests of your children.

Matthew is passionate about the benefits of mediation over other dispute resolution options. Mediation is cost-effective, timely and well suited to dealing with family and relationship matters.

You can contact Matthew on:

m: 0403 436 453

e: info@maxwellparker.com.au



As a registered FDRP and nationally accredited mediator, Matthew follows the National Mediation Accreditation Standards (NMAS) (www.msb.org.au) and Family Law Act 1975 (Regulations 2008).

If you wish to make a complaint about the mediation process, please contact the Resolution Institute (www.resolution.institute/).

General Information

Reconciliation

FDR practitioners must give a married person who is considering a divorce, or considering going to court about their children or their finances, information about family counselling and FDR services available to help with reconciliation.

Information does not need to be given if the FDR practitioner believes they already have the relevant documents or they believe there is no reasonable possibility of reconciliation.

Family Relationships Online or the Family Relationship Advice Line (1800 050 321) can provide information about family counselling services.

Disputes Involving Family Violence or Child Abuse

A person does not need to attend FDR before making an application to the court about a child in a number of circumstances including where there has been family violence, child abuse or a risk of family violence or child abuse.

Where these circumstances exist the court must be satisfied that the person making the application has received information from a family counsellor or an FDR practitioner about services and options (including alternatives to court action) available.

Under the Family Law Act, a practitioner:

i) must make a notification report to a prescribed child welfare authority where the practitioner has reasonable grounds for suspecting that a child either has been abused or is at risk of abuse

ii) may make a voluntary notification report to a prescribed child welfare authority where the practitioner has reasonable grounds for suspecting that a child either has been ill treated or is at risk of ill treatment or has been exposed or subjected to behaviour which psychologically harms the child

iii) need not notify a prescribed welfare authority of his or her suspicion that a child has been abused, or at risk of being abused, if the practitioner knows that the authority has previously been notified about the abuse or risk, but the practitioner may notify the authority of his or her suspicion.

Obligations on advisors: Parenting Plans

Updated: 6 May, 2024

When advisors or practitioners speak to clients relating to parenting arrangements for children, they **must** inform the person that the paramount consideration must be in the **best interests of the child**.

In substance, these are:

- the safety of the child and people who care for the child (including any history of family violence or family violence orders)
- the child's views
- the developmental, psychological, emotional and cultural needs of the child
- the capacity of each person who will be responsible for the child to provide for the child's developmental, psychological, emotional and cultural needs
- the benefit of the child having a relationship with each parent, and other people who are significant to them (e.g. grandparents, siblings), where it is safe to do so, and
- anything else that is relevant to the particular circumstances of the child.

If the child is an Aboriginal or Torres Strait Islander child, advisors should also encourage the person to consider how any parenting plan will help the child experience their Aboriginal or Torres Strait Islander culture.