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Family Dispute Resolution (FDR)

Family Dispute Resolution (FDR) may be able to help you and your ex-partner reach an agreement about arrangements for children and dividing property after separation. It can also be used when there are family law disputes with other family members (like grandparents or in-laws) spending time with the children, even if you and your partner have not separated.

In most cases the law requires you to try FDR first before starting a case in the Family Court of WA for orders about children.

You will have to give the court a certificate, signed by an FDR Practitioner, to show you tried FDR. Without a certificate, the court will not accept your application for parenting orders.

There are some exemptions to this, including when there has been or is a risk of family violence or child abuse.

What is Family Dispute Resolution?

Family Dispute Resolution (FDR) is a type of mediation that involves people meeting together with a Family Dispute Resolution Practitioner (FDR Practitioner) to try and reach an agreement about family law issues.

FDR Practitioners have had special training to support separated families work out their family law disputes. In relation to disputes about a child, the FDR Practitioner will help parents (or other caregivers) to focus on the best interests of their child or children. FDR Practitioners are independent. This means they are not on your side or your ex-partner's side (or on the side of another person involved in the dispute).

Some examples of issues you can try to resolve at an FDR conference include:

- how decisions will be made about your child
- care arrangements for your child including who they will live with and how much time they will spend with their parents and other important people in their lives
- other matters about how your child will be raised, including what school they will go to, and
- how property and finances will be divided.

What happens in FDR?

In an FDR conference, the FDR Practitioner helps you to discuss issues with your ex-partner (or another person involved in the dispute). As the FDR Practitioner is independent and must remain impartial, they cannot give you legal advice or decide what you should do, but they may try to help you think of options or solutions that could resolve your disagreement.

The FDR process involves:

- identifying the issues
- listening to each other's concerns
- sharing all the relevant information
- considering all ideas and options
- talking through possible solutions, and
- being ready to compromise.

Are the things we talk about in FDR kept private?

What is said in FDR is private and confidential. This means that the FDR Practitioner, people who attend, and their lawyers cannot tell anyone (including the court) what was said during the conference, including offers or proposals made. However, there are some exceptions to this rule and they include sharing information if it is necessary to protect:

- a child from the risk of physical or psychological harm
- a person from a threat to their life or health, or
- property from deliberate damage or destruction.

Things that are said to or in front of the FDR Practitioner cannot normally be used as

evidence in court, unless it is necessary to give evidence that there has been or is a risk of child abuse.

What happens if we reach an agreement in FDR?

If you and your ex-partner (or another person involved in the dispute) reach an agreement at an FDR conference you can:

- enter into a parenting plan, or
- formalise the agreement by filing an application for consent orders with the court.

For information about parenting plans and consent orders about children see Making arrangements for children.

For information about formalising a property agreement with consent orders, see Property Settlement: Consent Orders.

What happens if we do not reach an agreement in FDR about our child?

If you cannot reach an agreement about arrangements for your child at an FDR conference, you can ask for an FDR Certificate to show you tried FDR. You and your ex-partner (or another person involved in the dispute who attended the conference) can then apply to the Family Court for orders about your child. You should get legal advice before filing an application with the Family Court.

When can an FDR Practitioner grant an FDR Certificate?

An FDR Practitioner can grant an FDR Certificate in the following situations:

- Your ex-partner (or another person involved in the dispute) refuses or fails to attend an FDR conference.
- The FDR Practitioner assesses it is not appropriate to start or continue with FDR because of family violence, a risk of child abuse, or there is a power imbalance in the relationship dynamics.
- All relevant people attend FDR, but someone does not make a genuine effort to reach an agreement. In this situation the court may order you to try FDR again during the

court case and if that person still does not make a genuine effort during FDR, it may affect how the court makes decisions about legal costs.

More information

- Dispute Resolution at Legal Aid WA
- Information sheet - Preparing for mediation parenting
- Information sheet - Preparing for mediation property
- Factsheet – Family Dispute Resolution at Legal Aid WA parenting
- Factsheet - Family Dispute Resolution at Legal Aid WA property

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