

Information on Family Dispute Resolution for Clients

The Family Law Act and Regulations require family dispute resolution practitioners to ensure that clients receive information to enable them to understand the important elements of family dispute resolution. This information must be provided prior to commencing family dispute resolution and must include the following information:

1. It is not the role of the family dispute resolution practitioner to give people legal advice (unless the family dispute resolution practitioner is also a legal practitioner).
2. The family dispute resolution practitioner's confidentiality and disclosure obligations (as detailed below).
3. The generally inadmissible status of communications made in family dispute resolution (as detailed below).
4. The qualifications of the family dispute resolution practitioner to be a family dispute resolution practitioner. **I am registered with the Federal Attorney General's Department. I am also a Nationally Accredited Mediator and as detailed in my curriculum vitae attached.**
5. The fees charged by the family dispute resolution practitioner in respect of the family dispute resolution. **My fee is \$3,300.00 per day, \$1,760.00 per half day and \$440.00 per hour with all fees inclusive of GST to be paid in advance of the mediation and any additional fee incurred for room hire or travel.**
6. The Resolution Institute of which I am a member will deal with any complaints or other comments that you wish to make about the dispute resolution service provided by me. **The Resolution Institute can be contacted by email at infoaus@resolution.institute or by phone on (02) 9251 3366 or 1800 651 650.**
7. The family dispute resolution must be attended, before applying for an order in relation to a child, unless an exception applies.

8. That if a person wants to apply to the court for an order in relation to a child they will need to obtain a certificate from the family resolution practitioner before applying, unless an exception applies.
9. That a court will take into account the certificate when deciding whether to make an order referring the parties to Family Dispute Resolution or to award costs against the person.
10. The certificate shows the outcome of the attempted dispute resolution. The dispute resolution practitioner will fill in the parties' details against the most relevant category on the certificate. The choices are:
 - (a) One party did not attend family dispute resolution due to the refusal, or the failure, of the other party or parties to the proceedings to attend; or
 - (b) The practitioner decided the case was not appropriate for family dispute resolution; or
 - (c) All parties attended and made a genuine effort to resolve the dispute; or
 - (d) All parties attended but one or both did not make a genuine effort to resolve the dispute; or
 - (e) The family dispute resolution started but part way through the practitioner decided it was not appropriate to continue.

Information on services that assist reconciliation –(Family Law Act -Section12G)

If you are a married person who is considering a divorce, or considering going to court in relation to proceedings about your children or your finances under the Family Law Act, you should refer to information about family counselling and family dispute resolution services available to help with a reconciliation.

Information on relevant services can be obtained by searching family relationships Online at www.familyrelationships.gov.au for family counselling services or by contacting the Family Relationship Advice Line on 1800 050 321.

Information in cases involving family violence or child abuse - (Family Law Act -Section 60J)

A person does not need to attend family dispute resolution 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. These circumstances are:

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- (a) you are applying for a consent order;
- (b) you are responding to an application;
- (c) the matter is urgent;
- (d) there has been, or there is a risk of, family violence or child abuse;
- (e) a party is unable to participate effectively (eg. due to incapacity or geographical location); or
- (f) a person has contravened and shown a serious disregard for a court order made in the last 12 months.

When applying to the court, you will need to provide information to demonstrate that one of the exceptions applies to you. If you use the exception relating to family violence or child abuse, you will need to get information about your options and the services that can help you from a family counsellor or family dispute resolution practitioner or by ringing the Family Relationship Advice Line on 1800 050 321 or by searching family relationships online at www.familyrelationships.gov.au.

Information about parenting plans – (Family Law Act 1975 – Sections 63DA(1) –(3) and 63C(2)

What is a parenting plan?

A parenting plan is an agreement that sets out parenting arrangements for children. A parenting plan covers the day to day responsibilities of each parent, the practical considerations of a child’s daily life, as well as how parents will agree and consult on important, long-term issues, such as which schools children will attend.

A parenting plan, in itself, is not a legally enforceable agreement, and is different from a parenting order, which is made in court. Parties to a parenting plan can ask the court to make ‘consent orders’ in the terms of that plan.

The court will only make a consent order if it is satisfied that the terms of the plan are in the best interests of the child. Once made, consent orders are legally binding – they have the same effect as any other order made by a court.

If parents proceed to court at any time, the court will be required to consider the term of the most recent parenting plan when making a parenting order in relation to a child, if it is in the best interests of the child to do so. In order to be recognised by the court, a parenting plan must be in writing, dated and signed by both parents. It must be made free from any threats, duress or coercion.

In addition, when considering the best interests of the child, the court will also consider the extent to which both parents have complied with their obligations in relation to the child, which may include the terms of a parenting plan.

Information about the confidentiality and admissibility requirements of family dispute resolution process -(Family Law Act Sections 10G and 10H)

The confidentiality and inadmissibility provisions under the Family Law Act only apply where the family dispute resolution is being conducted by an accredited family dispute resolution practitioner. In terms of inadmissibility, according to the Act, 'evidence of anything said, or any admission made, by or in the company of, a family dispute resolution practitioner is not admissible'.

Family dispute resolution practitioners must not disclose a communication made in family dispute resolution unless the disclosure is required or authorized under the Act.

A family dispute resolution practitioner **must** disclose a communication made in family dispute resolution if he or she reasonably believes that the disclosure is necessary for the purpose of complying with a law of the Commonwealth, a State or a Territory (e.g. to comply with legislation requiring mandatory disclosure of suspected child abuse).

A family dispute resolution practitioner **may** disclose a communication made in family dispute resolution if he or she reasonably believes that the disclosure is necessary for the purpose of:

- (a) protecting a child from risk of physical or psychological harm;
- (b) preventing or lessening a serious and imminent threat to the life or health of a person;
- (c) reporting the commission, or preventing the likely commission, of an offence involving violence or a threat of violence to a person;
- (d) preventing or lessening a serious and imminent threat to the property of a person;
- (e) reporting the commission, or preventing the likely commission, of an offence involving intentional damage to the property of a person or a threat of damage to property; or
- (f) assisting an independent children's lawyer to properly represent a child's interests.

