

What you need to know before you start Family Dispute Resolution

Regulation 28 of the Family Law (Family Dispute Resolution Practitioners) Regulations 2008

Family Dispute Resolution is a process in which a fully trained practitioner helps people affected or likely to be affected by separation or divorce to resolve some or all of their disputes with each other. The Family Dispute Resolution practitioner is independent of all parties involved and acts as a mediator between them to assist in negotiating successful outcomes.

By law Better Place Australia is required to provide you with the following information before you start mediation so you are fully aware of the key points of family dispute resolution.

Practitioner Qualifications

All Family Dispute Resolution Practitioners employed by Better Place Australia have qualifications that meet or exceed regulation standards and are entered on the Register of Family Dispute Resolution Practitioners. This Register is maintained by the Commonwealth Attorney-General's Department. Any Better Place Australia practitioner who works with children has also received specific training that enables them to do so. If required, a list of qualifications is available on request.

Legal Advice

It is not the role of any Better Place Australia practitioner to provide you with legal advice unless he or she is also a legal practitioner. You have the right to seek legal advice at any time during the Family Dispute Resolution process.

Appropriateness of the Family Dispute Resolution Process

The Family Dispute Resolution process is not necessarily appropriate for all disputes. Better Place Australia practitioners make an assessment at your initial appointment and keep assessing the case throughout the mediation process. A decision not to proceed is based on whether or not the ability of either party to negotiate is affected by:

- A history of violence between the parties
- The likely safety of those involved
- The equality of bargaining power

- The risk of abuse to any children
- The emotional, physical and psychological health of the parties, or
- Any other issue that the Family Dispute Resolution Practitioner considers relevant.

If, after considering these matters, the Better Place Australia practitioner is not satisfied that Family Dispute Resolution is appropriate the practitioner will not provide the service.

Parental Responsibilities

The best interests of the child are the most important consideration in any decision affecting that child. Therefore, if your dispute relates to children, you will each need to attend a Child-in-Focus group prior to attending a joint Family Dispute Resolution session.

Genuine Efforts to Resolve

The Australian family law system encourages parents to develop cooperative parenting solutions without going to court. If you wish to start court action in relation to children's matters, under Part VII of The Family Law Act 1975, you must attend Family Dispute Resolution prior to applying for an order, unless an exemption applies.

Family Dispute Resolution practitioners can provide certificates regarding your genuine efforts to resolve issues through attendance at Family Dispute Resolution sessions. Certificates can be issued stating that:

- You attended Family Dispute Resolution with the other party/parties and all attendees made a genuine effort to resolve the issues
- You did not attend Family Dispute Resolution due to the refusal or failure of the other party/parties to attend
- You attended Family Dispute Resolution with the other party/parties but they did not make a genuine effort to resolve the issues
- You did not attend Family Dispute Resolution with the other party/parties because the practitioner feels it would not be appropriate to conduct (or continue) Family Dispute Resolution

- You began attending Family Dispute Resolution but the practitioner feels that it would not be appropriate to continue.

If a certificate is filed, the court may take it into account when considering whether or not to make an order referring parties to Family Dispute Resolution or to award costs against a person.

Confidentiality and Disclosure Obligations

Practitioners have confidentiality requirements and must not disclose anything said in Family Dispute Resolution sessions unless the disclosure is required or authorised under the Act. Practitioners:

- **Must** disclose a communication made in family dispute resolution if s/he reasonably believes that it is necessary to do so to comply with Commonwealth, State or Territory law. For example, to comply with legislation requiring mandatory disclosure of suspected child abuse
- **May** disclose a communication if s/he reasonably believes that disclosure is necessary to:
 - protect a child from the risk of physical or psychological harm
 - assist an independent children’s lawyer working under an order, to properly represent a child’s interests
 - prevent or lessen a serious and imminent threat to the life or health of a person or their property
 - report or prevent the commission or likely commission of an offence involving violence or a threat of violence to someone
 - report or prevent the commission or likely commission of an offence involving intentional damage or threat of intentional damage to someone’s property
- **May** disclose a communication with the consent of the adult who made the disclosure or, if disclosure was made by a child under 18, with the consent of both the child’s parents. If both parents cannot agree about disclosure, the matter may be referred to the court to make the decision
- **May** agree to provide information for relevant research purposes but only if the information they give does not constitute ‘personal information’ which is information or opinion from which your identity can easily or reasonably easily be ascertained.

Admissibility of Disclosure

Nothing said in Family Dispute Resolution sessions to practitioners is admissible in any court or proceedings in any jurisdiction whether it be Commonwealth, State or Territory.

Likewise, if a practitioner has referred you to a third party professional (such as medical, legal etc), nothing said to that professional is admissible while they are carrying out professional services in relation to your case. It is the responsibility of your practitioner to inform the third party professional of this when making a referral.

The only exception to admissibility is where disclosure indicates that a child under 18 years has been or is at risk of abuse.

Interpreters



You can ask us for an interpreter in your language.

What do I do now?

If you feel your situation would benefit from Family Dispute Resolution, or you would just like to know more, please call 1800 639 523 or send an email to enquiry@betterplace.com.au with your contact details.

Find out more
www.betterplaceaustralia.com.au

Dec 2017