

Telephone Dispute Resolution Service – About the FDR Certificate

About the Family Dispute Resolution (FDR) certificate form

The 60I certificate, also commonly known as the 'FDR certificate' is made under Section 60I of the Family Law Act 1975 ('the Act'). Under Section 60I, you need to try FDR before you can apply to the court to make or change parenting orders. The FDR certificate shows that the applicant has attempted FDR, and the certificate is filed with the court application.

There are exceptions to this requirement, including where there is family violence, child abuse or the matter is urgent. If you believe that these circumstances apply to you, you should seek legal advice about applying for an exemption (it is not automatic).

Who are the 'parties'? The parties are the people who have a dispute about a child. The parties are usually the parents of a child but sometimes might involve others, such as grandparents. The parties will be invited to attend FDR and their names may be entered on a 60I certificate even if they did not attend.

What are the 'issues in dispute'? The 'issues in dispute' are the arrangements the parties disagree about. For example, who a child lives with, spends time with and communicates with, where a child goes to school, or any other issues that might apply. A brief description of these may be entered onto the FDR certificate.

What is required under 'name of the FDR practitioner'? The practitioner's full name does not need to be included but the form does require the practitioner's 'Registration Number'. Only Registered practitioners can issue FDR Certificates.

How does the practitioner decide whether Certificate (a) (b) (c) (d) or (e) is the right outcome?

The certificate shows the outcome of the attempted FDR. There are several potential outcomes. The practitioner will fill in the parties' details against the most relevant category on the certificate. The choices are:

(a) One party to the dispute did not attend at FDR

This means that both parties were invited to attend FDR, but one party refused or failed to go. This meant the FDR could not go ahead.

It does not matter which party has refused or failed to attend. For example, this category may apply if the initiating party refuses or fails to attend after the invited party has agreed to participate.

(b) The practitioner decided the case was not appropriate for FDR

Practitioners must not conduct FDR unless satisfied that it is suitable in the circumstances. The FDR practitioner must consider whether certain factors may impact the ability of either party to negotiate freely, including (but not limited to): a history of family violence; a risk of child abuse; the safety of parties; equality of bargaining power between the parties; the emotional, psychological, or physical health of the parties; or any other matter the FDR practitioner considers relevant. If the practitioner believes FDR is not suitable, FDR will not take place.

(c) All parties attended and made a genuine effort to resolve the dispute

This means all parties made a genuine effort during the dispute resolution process but were unable to resolve the dispute.

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It is up to the FDR practitioner to decide if a person has made a genuine effort, based on the circumstances. A practitioner might consider each person's willingness to join in discussions and to consider alternative points-of-view. If you don't come to an agreement, it is not necessarily because you did not make a genuine effort. There can be many reasons why people have different views about an issue.

A practitioner should not issue a certificate where parties are in agreement in relation to the issues in dispute.

(d) All parties attended but one or both did not make a genuine effort to resolve the dispute
See (c) above for information about genuine effort.

(e) The FDR started but part way through the practitioner decided it was not appropriate to continue
See (b) above for examples of situations where it might not be appropriate to conduct FDR.

Which Certificate is provided if an FDR practitioner is unable to invite a person involved in the dispute because no contact details are available? It is always the FDR practitioner's decision to issue (or not issue) a certificate, and which certificate to issue. The FDR practitioner cannot issue a certificate stating that a person refused or failed to attend FDR if the practitioner was unable to invite the person.

The FDR practitioner may decide that FDR is unsuitable without speaking to all parties.

What if the FDR practitioner cannot contact a person involved in the dispute while the FDR process is underway? The FDR practitioner will make reasonable attempts to contact the person(s) to determine whether they wish to continue with FDR. If the FDR practitioner is unable to contact the person(s), the FDR practitioner may issue a Certificate. It does not matter whether the person(s) who cannot be contacted initiated the process or not.

What detail does the FDR practitioner provide on the certificate? FDR practitioners must provide the registration number they are authorised to use, the organisation they represent (if applicable), the date they issued the certificate and the date of any previous attendance at FDR (if applicable). The FDR practitioner can choose whether they provide their surname or sign the certificate.

More information To find out about services and advice for families visit the FDR page on Family Relationships Online at www.familyrelationships.gov.au or call the Family Relationship Advice Line on 1800 050 321 between 8am and 8pm Monday to Friday and 10am to 4pm Saturday (except public holidays). To find a Family Relationship Centre see Family Relationships Online or call the Family Relationship Advice Line.