

## Commonly Asked Questions: Telephone Dispute Resolution

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### **How long does the process take?**

In ideal circumstances a Family Dispute Resolution (mediation) case may only take up to 8 weeks to get to mediation, though it could take 3-6 months if parties are reluctant to participate or are not available for appointments. Family Dispute Resolution is a high demand service and practitioners are booked well in advance. In some cases, practitioners may require additional information (i.e. copies of current court orders or domestic violence orders) to assess if your case will proceed. Cancellation of appointments will also increase how long the process will take. As a result, your case may take longer than initially indicated.

### **Are the agreements we make legally binding?**

No. Written agreements are made 'in good faith' and are not legally binding or enforceable. Parties may choose to turn their agreement into a Parenting Plan by signing and dating their agreement.

Agreements may be turned into Consent Orders with assistance from your legal representative, or by utilising one of the Do-it-Yourself Kits issued by the Family Court. Once filed with the Court, Consent Orders are legally binding and enforceable. While written agreements and Parenting Plans are not legally binding or enforceable, if your case goes to Court, they may be considered by the Court in its decision-making process.

### **Can I get legal advice?**

Yes. All parties are encouraged to and may seek legal advice at any stage during the Family Dispute Resolution process.

### **Can I have a support person present (i.e. my current partner, parent, friend, or support worker or legal representative) at my intake or mediation?**

Having a 'third party (support person)' present at your intake will need to be discussed with your practitioner and will need to be arranged prior to the appointment. You do need to be aware that during your intake you will be asked sensitive questions about your former and current relationship with the other parties involved. Please be aware that if you invite a support person to your intake, this person will become aware of any confidential information you may share.

Having a support person present at mediation will be at the practitioner's discretion and will require the consent of all parties involved, this includes having a legal representative present. Support people are considered 'silent support' and are unable to speak on your behalf during these sessions.

There is capacity for a specialised support person, such as a Carer, to be present at your appointments. If you require a specialised support person to assist you, please discuss this with our service before the appointment time. Specialised support people are considered 'silent support' and are unable to speak on your behalf during these sessions.

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### **What about Certificates?**

Certificates may be issued under Section 60i of the Family Law Act. Certificates may be issued at a practitioner's discretion for the following reasons:

- The refusal or failure of one party to attend (Certificate A);
- Parties attended and made a genuine effort to resolve the dispute (Certificate C);
- Either party has not been genuine in their effort (Certificate D);
- The case is deemed to be inappropriate to commence or continue (Certificate B or E).

Certificates are not automatically issued and must be requested. Certificates are valid for 12 months from the date of the last attendance and may be provided to one or all parties.

### **I think the other party is using 'delaying tactics'. What can I do?**

The Family Dispute Resolution process is intended to be undertaken in good faith and requires all parties to make a 'genuine effort' to reach an agreement.

Practitioners are required to give all parties every reasonable opportunity to participate in the process, and this **may** mean some delays may occur. However, should a practitioner believe any party is using 'delaying tactics' the case may be re-assessed for suitability.

### **I am really busy, is there provision for flexibility with appointments?**

Whilst your practitioner will make all reasonable effort to schedule appointments that are convenient, the high demand for the service may limit the options for appointment times. Practitioners must also balance the need for flexibility against the time taken to progress the case and must consider the fairness to the other parties involved. You may need to be prepared to arrange to take time off work or study and make arrangements for the care of your children at some stages of the process.

### **What if I need to cancel an appointment?**

Appointments should only be cancelled for valid reasons. If you cannot attend an appointment, please contact us as soon as possible. As the service is in high demand this will allow someone else to utilise the appointment time. Clients who repeatedly cancel appointments may have their case reassessed for suitability and the other party may be issued a certificate.

### **Can my child/children come with me to the intake or mediation?**

Due to the content to be discussed during appointments, it is important that you have privacy and can participate uninterrupted. Therefore, you will be unable to be responsible for the supervision and care of a child.

### **Do we offer Child-Informed / Inclusive Mediation?**

We do not offer this service.

### **What about property mediation?**

You can mediate about your property through our service. You don't need to have children or child-related issues to mediate about your property.

There may be some minor differences in the process where the dispute is only about property. We strongly encourage both parties to obtain independent advice from a lawyer and/or financial advisor in relation to your property before, during and/or after your mediation session.