

FDR – Agreement to Participate in Family Dispute Resolution

This document outlines the conditions under which Relationships Australia Queensland (RAQ) Limited provides family dispute resolution (FDR) services and the conditions that clients agree to abide by.

FDR is a process where an appropriately trained, independent and impartial FDR practitioner (the “practitioner”) assists you and the other party(ies) to resolve issues or disputes relating to your family. The practitioner will help you to: isolate the issues in dispute; explore options to resolve the issues; reality test one or more of the options; maintain focus on options that are in the best interests of any children that may be affected. The FDR process provides an opportunity for people who are separated or separating to come to an agreement and make decisions about their children and/or property.

Qualifications of FDR practitioners

All RAQ FDR practitioners are accredited by the Australian Government Attorney-General’s Department to provide FDR services. RAQ also maintains rigorous professional supervision and development standards to ensure high quality services for all clients.

The role of FDR practitioners and legal advice

- a) The practitioner shall remain impartial throughout the process and shall not support or promote the interests of one party over another.
- b) The practitioner’s role is to facilitate discussion between you and the other person, not to advise you what to do or provide legal advice. The practitioner may at times pass on child-focused information to support decision-making and negotiation, where appropriate and productive.
- c) Part of the practitioner’s role is to keep the discussion child-focused and future-focused. At times, the practitioner may challenge your views or assumptions, interject to keep things on track, and invite you to consider your child(ren)’s best interests and how potential decisions may impact on them.
- d) You have the right and are strongly encouraged to obtain legal advice at any stage in the FDR process.

Disputes involving a child

If the issues in dispute will impact a child, it is important that you consider:

- a) The best interests of the child are the paramount consideration in any decision that affects him or her and will only ever be exercised where it is safe to do so.
- b) If any children involved are of Aboriginal or Torres Strait Islander heritage, their cultural considerations will be included when considering the best interests of the child.
- c) Where major long-term decisions are shared, there is an expectation that parents will communicate with each other and make a genuine effort to reach a joint decision together.
- d) It is important that you consider the benefit to the child of being able to have a relationship with both parents and other significant people, where it is safe to do so and to the extent it is appropriate to the child’s needs.

Confidentiality

- a) Section 10H of the Act provides that practitioner/s must not disclose details of any communications made during the family dispute resolution process to any other person, except in certain circumstances (as outlined in the **Client Agreement and Consent form**).

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- b) Section 10J of the *Family Law Act 1975* ('the Act') provides that evidence of anything said, or admission made, in family dispute resolution is not admissible:
- In any court (whether exercising federal jurisdiction or not); or
 - In any proceedings before a person authorised to hear evidence (whether the person is authorised by a law of the Commonwealth, a State, or a Territory, or by the consent of the parties).

An admission or disclosure which indicates that a child under 18 has been abused or is at risk of abuse may be admissible unless there is sufficient evidence of the admission or disclosure available to the court from other sources.

- c) RAQ does not permit any person involved in the mediation process to record, copy, publish or distribute any part of any session without the consent of all persons involved (including the practitioner/s). It is an offence to make or publish a recording without consent.

Full Disclosure

During the session, each party will make full disclosure of all information (financial and personal) relevant to the FDR. The practitioner may stop the FDR process if full disclosure is not made/not able to be made.

There are specific rules about disclosure in property mediation, and consequences for failure to comply, such as your agreement being set aside and costs orders. Parties are encouraged to comply with the duty, and to review the Duty of Disclosure fact sheet for further information.

Mutual Respect

Each party has the right to speak for him or herself without interruption, and to be treated with respect during family dispute resolution sessions. The practitioner will work with both parties throughout the session to establish and maintain respectful discussion.

Conflict of Interest

If during the FDR process a practitioner identifies that they:

- a) Have acted previously in a professional capacity for a party; or
- b) Have had a previous commercial dealing with a party; or
- c) Are a personal acquaintance of a party,

The practitioner must disclose this information to both parties. The practitioner will only continue with the fully informed consent of both parties, or organize for a new practitioner to be appointed.

Participation of Others in Family Dispute Resolution

- a) The practitioner is required to complete an intake and assessment with all parties to the FDR process.
- b) Other persons (someone who is not a party, such as support persons) may only be present in the session if:
 - a. The person has a direct interest in the FDR, and
 - b. All participants, including the practitioner, provide consent for the person to be present.
- c) Other persons are not permitted to participate in the discussion or decision-making process unless all participants, including the practitioner, provide consent.

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- d) If it is agreed that the person should be involved in future FDR sessions, the practitioner may require the person to complete intake and assessment.
- e) Legal professionals supporting a client are required to sign off that they have read and agree to the *Protocol for the provision of legal assistance in Family Relationship Centres (2017)* (**attach**).

Legal Effect of Agreements

Any agreements reached in family dispute resolution are not legally binding. The parties understand that they may, by agreement, take steps to make their agreements enforceable.

Private Sessions

The practitioner/s may at any point request to speak with either/both of the parties separately to assist the negotiation. Private sessions are confidential (see section above – **Confidentiality**). Should information be disclosed which would impact on the mediation process the mediator may encourage parties to share information in the joint session.

Termination

FDR is a voluntary process. Either party may withdraw from FDR at any time. The practitioner/s may also terminate the session at any time if:

- a) The practitioner believes that either party is unable to negotiate freely, or represent their point of view,
- b) The practitioner believes that he/she is no longer able to assist the parties to resolve their dispute.

Family Dispute Resolution may not be appropriate

Family Dispute Resolution may not be appropriate for all disputes, particularly if a dispute involves violence or intimidation that makes one party unable to negotiate freely because of another's threats.

Certification

I have read and understood this Agreement and I voluntarily agree to participate in FDR.

Client full name, signature // Date 		Client full name, signature // Date
FDR Practitioner name, signature // Date 		Child Consultant name, signature // Date
Legal Practitioner name, signature // Date 		Legal Practitioner name, signature // Date