

Property FDR Information Sheet

The Toowoomba FRC (Family Relationship Centre) Team would like to welcome you to our service. We understand that separation can be a difficult time, particularly when you must communicate with each other to make important decisions about your financial futures.

Family Dispute Resolution (FDR) is a form of mediation established by the Family Law Act 1975 (The Act), which is specifically designed to assist separating parties to resolve their parenting and/or property concerns in a respectful and co-operative manner. In addition to FDR services, we offer information, referrals, conflict & communication programs as well as other support options tailored to meet the individual needs of families. Our team respects cultural differences & beliefs and works supportively with all relationships & family arrangements.

The Benefits of Property FDR

Separation often involves the division of “property”, which can include bank accounts, houses, superannuation, vehicles, mortgages as well as other assets and debts.

Our Family Dispute Resolution Practitioners (FDRPs) are trained to manage the emotion that is often attached to property settlement discussions and our team of FDRPs is committed to providing an environment that supports both parties to have difficult conversations.

Participants will be given the opportunity to listen to each other and to negotiate in good faith towards an outcome that is acceptable to both parties.

The advantages of Property FDR include the following:

- » Clients have the opportunity to tell their side of the story;
- » FDR is private and confidential – discussions which occur in the FDR Joint Session cannot be disclosed to the Court by either party if the matter does proceed to Court after FDR;
- » Decisions can be made in a timely and cost-effective manner;
- » Parties get to make decisions together rather than giving decision-making power to a Court; and
- » FDR encourages an environment of co-operation, which can foster improved communication between separating parties. This is particularly important if the parties are required to continue co-parenting their children into the future.

Is Property FDR suitable for me?

Property FDR at the Toowoomba FRC involves far more than scheduling a time for the parties to sit in a room with a mediator/FDRP. Effective preparation for Property FDR ensures that clients have the best opportunity to feel heard by each other & reach agreements that both parties agree to. Prior to scheduling the Joint FDR Session, all clients are given the opportunity to participate in assessments, education, referrals & coaching so they can feel prepared & ready to discuss their concerns in a meaningful way at mediation.

Property FDR may not be appropriate for everyone or for every dispute. Before attending any meetings with the other party, our FDRPs must make an assessment to determine whether FDR is an appropriate option for your situation.

It is important to be aware that time limits apply if either party intends to apply to the Court for orders to be made regarding the division of property. For people who were married, the time limit for filing is within 12 months of their divorce becoming final. For those who were in a de facto relationship, the time limit is within 2 years of separation. If the time limit is due to expire soon in your case, we encourage you to urgently seek legal advice about the implications before starting our Property FDR process.

Property FDR is a voluntary process and does not in itself result in legally binding outcomes. However, if agreements are made during FDR, this can be captured in writing so the parties can seek legal advice and take the required steps to cause the agreement to become legally binding.



“We provide FDR **Property Settlement** services so that **separated** partners can negotiate and **agree** on **financial** matters without **litigation**.”

Property FDR process

Although our process may vary slightly on occasions to accommodate exceptional circumstances, our Property FDR clients can generally expect to be guided through the following process.

Property FDR is typically initiated by one party ("Party A") contacting our office to request the service. Party A's contact information will be obtained at this time, including an email address so we can send a Start-Up Link for Party A to complete an e-form and return to us. Once we receive Party A's completed e-form, we will contact Party A to book him/her into a 1.5 hour Property FDR Information Session (**Property Info Session**) which is generally delivered in a group setting. This session explains what to expect from Property FDR & provides some practical tips & hints on how to prepare for the Joint FDR Session. The Property Info Sessions are carefully managed to ensure the parties do not attend the same session.

Upon completion of the Property Info Session, Party A will be scheduled to attend a Property Intake appointment with one of our FDRPs, which will typically occur as a face-to-face meeting. The purpose of this appointment is as follows:

1. Provide further information about Property FDR and answer any questions the client may have;
2. Clarify what assets and liabilities are available to be divided between the parties;
3. Obtain an understanding of what it is that Party A is hoping to achieve from FDR;
4. Discuss what additional documentation or information is required before the Joint FDR Session; and
5. Obtain information to help the FDRP determine if the case is appropriate to proceed to mediation.

The Property Intake will generally take between 1.5 & 2 hours. During this appointment, the FDRP may recommend information and referrals that will be of assistance in preparing for the Joint FDR Session. Referrals may include opportunities to access counselling, legal advice, financial advice and/or education programs that specifically address topics relevant to each client's circumstances.

Please note that due to the high level of demand for this service, there may be a wait period between the Property Info Session & the Property Intake appointment. If this is the case, the client will be given an estimated timeframe. Note: timeframes may be reduced if both parties (Party A & Party B) each contact our office to confirm their intention to seek FDR services at the earliest possible time.

After Party A's Property Intake, Party B will be invited to attend our service to participate in the same process as Party A. It is important to know that we are committed to providing a consistent and equitable process for all parties, so regardless of who initiated Property FDR (Party A or Party B), both clients will be treated the same and given the same FDR preparation opportunities. If Party B declines to participate or does not respond to the invitation, Party A will be notified of this outcome in writing and the file will be closed.

Once the Info Sessions and Intake appointments have been completed with all parties, the FDRP(s) will finalise their decision as to whether FDR is appropriate to proceed to a Joint FDR session:

- » If FDR is deemed inappropriate, the relevant parties will be notified of this decision and alternative options or referrals may be suggested. For confidentiality reasons, our staff will not be able to provide reasons for why this decision has been made.
- » If FDR is deemed appropriate to proceed, the parties will be contacted to schedule a 3-hour Joint FDR Session. A second or subsequent Joint FDR Session may be offered to clients. Fees (partially government subsidised) may apply, as set out in our FDR Services Fees Notice.

It is important to note that appropriateness for FDR is constantly being assessed by the FDRPs & FDR can be discontinued at any time if the matter becomes inappropriate to proceed.

What Else You Should Know About FDR at the Toowoomba FRC

FDRP CONFIDENTIALITY OBLIGATIONS TO FRC CLIENTS

During your involvement with our service, you will be asked to provide personal information about yourself & your family. We therefore advise clients that our FDRPs are committed to upholding their confidentiality obligations set out in Section 10H of the Act. We encourage you to review this legislation for detailed information, however in summary, we advise that FDRPs are prevented from disclosing any communication made in FDR unless the

disclosure is required or authorised by law. Please note that FDRPs must disclose a communication made in FDR if he or she reasonably believes the disclosure is necessary to comply with a relevant law, for example, to report or protect a child or person from significant harm, to prevent a serious criminal offence from occurring or to report suspected child abuse.

INADMISSIBILITY

Section 10J of the Act provides that communications made in FDR are not admissible in any Court or proceedings, in any jurisdiction. This means that what the parties say or do in the Joint FDR Session cannot be quoted or referred to by either party as evidence if Court proceedings are subsequently initiated by either party. This gives participants the opportunity to speak openly with each other without fearing legal implications of “saying the wrong thing”. Clients should be aware however, that this protection does not extend to disclosures or admissions regarding child abuse or risk of child abuse.

The Toowoomba FRC is committed to keeping all aspects of the FDR process confidential, including the Intake & assessment records. However, clients should be aware

that the information recorded in the Intake & assessment process may, in very limited circumstances, be sought via subpoena for production to the Court.

We confirm that CatholicCare Social Services may object to the issue of a subpoena or the inspection of some or all of the documentation to be produced. We will only object should we consider it appropriate to do so having regard to our duty of care for our clients & our staff. If an objection to a subpoena is raised, the Court may inspect the documents to determine whether they should be provided to the party who issued the subpoena. If you have questions in relation to confidentiality or admissibility in FDR, we strongly encourage you to seek independent legal advice prior to your Intake being scheduled.

MAKING AND CANCELLING APPOINTMENTS

If you are unable to attend an appointment at any time, please telephone & advise accordingly. We do ask that wherever possible, you provide us with 48 hours' notice prior to cancellation so we can then allocate your appointment time to someone else who is waiting.

Please Note: Cancellation of appointments may have implications for your FDR process, so please phone & speak with our staff regarding your individual circumstances.

Parents are advised to make childcare arrangements for all appointments at the FRC as we are unable to

provide childcare services & your children cannot attend your appointment. If your appointment is by telephone conference, please ensure that your child is cared for by another person for the full duration of your appointment as it is important that both you have a private space and you and your FDRP are able to focus on your telephone conversation. Client safety is of utmost importance to us. Accordingly, if you have current safety concerns, we ask that you telephone our office to discuss your concerns with one of our FDRPs prior to your appointments being booked.

FDRP QUALIFICATIONS AND LEGAL ADVICE

All FDRPs employed in our service are appropriately qualified, accredited & registered with the Attorney General's Department & are therefore authorised to deliver FDR services in accordance with the Act and the Family Law (Family Dispute Resolution Practitioners) Regulations 2008 (Family Law Regulations).

Clients should be aware that our FDRPs are not able to provide legal advice to FRC clients. Our FDRPs are aware

however, that outcomes in FDR can often be optimised if all parties obtain legal advice prior to the Joint FDR Session. We have therefore developed strong connections within the Toowoomba legal community & may be able to refer clients to access free or affordable legal advice elsewhere if this is considered reasonable & necessary. We encourage clients to discuss this option with our FDRPs during their Property Intake.

COST OF PROPERTY FDR

We are a not-for-profit organisation and our fees are subsidised. Where fees apply, each participant pays for him/herself. Please refer to our CatholicCare Fees Notice or contact 1300 348 248 if you would like more information about fees.

Get In Touch

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