

What to expect from Family Dispute Resolution

The Toowoomba FRC Team would like to welcome you to our service.

We are committed to assisting families through separation and we are supportive of all separated parents & carers in their ongoing co-parenting journey. We understand that separation & co-parenting can be difficult at times for both adults & children, however we also know that if it's managed well, all family members can go on to experience full & meaningful relationships with each other and with other people of significance to the family unit.

The key to successfully managing separation will generally involve effective, appropriate communication and ensuring children are protected from parental conflict. Our team respects cultural differences & beliefs and works supportively with all relationships & family arrangements.

How the Toowoomba FRC can assist you

What children need during and after separation is the same as before separation: consistent, nurturing & meaningful connection with their parents/carers.

The Toowoomba FRC supports families to focus on their children's needs during and/or after separation. We offer information, referrals, conflict & communication programs as well as Family Dispute Resolution (FDR) services. FDR is a form of mediation established by the Family Law Act

1975, which is specifically designed to give separated parents/carers the opportunity to discuss & agree on how they will meet their children's ongoing needs.

FDR may involve separated parents re-defining their relationship & finding new & respectful ways of communicating with each other so that their children have a meaningful relationship with both parents and enjoy a childhood protected from parental conflict.

What to expect from Family Dispute Resolution (FDR) at The Toowoomba FRC

FDR at the Toowoomba FRC involves far more than scheduling a time for parents/parties to sit in a room with a mediator.

Effective preparation for FDR ensures that clients have the best opportunity to feel heard by each other & reach agreements that are workable for all family members. 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.

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

FDR is typically initiated by one party (Party A) contacting our office to request the service. At this time, Party A completes a registration and consent form and then is contacted via phone by a staff member to explain the next steps in the FDR process & to answer any general questions Party A may have about our service. Party A will be asked to provide contact information for the person(s) whom they wish to mediate with (Party B).

Following the telephone appointment, the Practitioner will book Party A into a 1.5 hour FDR Information Session (the Info Session) which is generally delivered in a group setting. This session explains what to expect from FDR & provides some practical tips & hints on how to prepare for the Joint FDR Session. The Info Sessions are carefully managed to ensure the parties do not attend the same session.

After PA has attended the Info Session, a further appointment (the "Intake Appointment") will be scheduled for Party A to have a one-on-one meeting with a Family Dispute Resolution Practitioner (FDRP), (usually face to face) to provide more detailed information about

the family's circumstances & what Party A is hoping to achieve in FDR. The Intake Appointment will generally take 1.5 or 2 hours depending on the type of FDR being considered. During the Intake Appointment, the FDRP may recommend information & referrals that will be of assistance to each party in preparing for FDR. Referrals may include opportunities to access counselling, free legal 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 our services, there may be a wait period between the Info Session & the Intake Appointment. If this is the case, the client will be given an estimated time frame & we will contact the client as soon as possible. Note: time frames may be reduced if both parties (Party A & Party B) each contact our office to confirm their intention to seek FDR services.

After Party A's Intake, Party B will be invited to attend our service to participate in the same process as Party A. It is important to remember that we are committed to providing a consistent & equitable process for all parties so regardless of who initiated FDR (Party A or Party B), all clients will be treated the same & are 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 & the file will be closed. Party A may be eligible to receive a certificate from our service in these circumstances. It is important to be aware that mediation is not always appropriate. Our FDRPs are legally required to make an assessment as to whether FDR is appropriate for the parties at the time it is sought, which is a decision that is guided by legislative criteria. Additional appointments may be offered to FRC clients before booking a Joint FDR Session as this may be required to ensure clients are prepared for FDR or to assist our FDRPs to complete their assessment of appropriateness for FDR.

“Effective preparation for FDR ensures that clients have the best **opportunity** to feel **heard** by each other & reach **agreements** that are **workable** for all family members.



Once the Information 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 & alternative options or referrals may be suggested. For confidentiality reasons, FDRPs will not be able to provide reasons for this outcome, however the FDRP will advise which party may be eligible for a certificate from our service.
- » If FDR is deemed appropriate to proceed, the parties will be contacted to schedule a 3-hour Joint FDR Session. Occasionally, a second 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 continue.

If you are able to reach agreement with the other party(s) in the Joint FDR Session, you may consider having your agreement documented in a Parenting Agreement or Parenting Plan.

Further information about Parenting Plans is available at www.familyrelationships.gov.au/documents

Models of FDR Available at The Toowoomba FRC

We know that no two families are exactly alike, which is particularly true for separated families.

Clients seek our assistance at various stages in their separation and co-parenting journey: from initial separation to many years after separation; from a single point of disagreement to deeply entrenched conflict; from babies to late teens; from no legal involvement through to lengthy & costly litigation; or when specific joint decisions need to be made (e.g. education, health, religion, residential locations).

The Toowoomba FRC has developed a range of FDR models to accommodate the diverse needs of the families we work with. Brief summary of the models of FDR offered at the Toowoomba FRC are set out below. Our Family Dispute Resolution Practitioners (FDRPs) may discuss different models to suit your family's particular circumstances however please be aware that it is ultimately the FDRP's decision as to what model of FDR will be recommended in each case.

CHILD INCLUSIVE FAMILY DISPUTE RESOLUTION (CIFDR)

This form of FDR can support child/ren to have a voice within the mediation process & can enable parents/carers, to hear the experiences & perspectives of their child/ren. CIFDR aims to support you as parents/ carers to make decisions which sensitively respond to their child/ren's needs. For CIFDR to be an effective process & of benefit to their child/ren, both parents/carers need to be genuinely open & willing to hear the feedback from their child/ren's sessions with the Child Consultant & be able to reflect on any recommendations made by the Child Consultant.

PROPERTY SETTLEMENT

Separation often involves the division of "property", which can include bank accounts, houses, superannuation, mortgages as well as other assets and debts. The Toowoomba FRC offers FDR services to assist separating couples resolve their property disputes so they can each move on with their lives financially independent of the other. Property FDR also provides an opportunity for separating couples to discuss arrangements for the future support of children and other dependents.

LEGALLY ASSISTED FAMILY DISPUTE RESOLUTION (LAFDR)

This form of FDR typically involves both parties having a lawyer with them in the mediation room during the Joint FDR Session. It is still the role of the FDRP to facilitate the mediation, however the lawyers are present to support clients in the problem-solving & agreement-making phase of FDR. The role of the lawyers is to observe & occasionally ask clarifying questions rather than advocate for their client's wishes in the mediation room. Clients will be given the opportunity to meet with their lawyers privately at times during the mediation to ask questions or seek advice. Lawyers can also be of assistance if clients wish to make their agreement legally binding (a process that is separate to the services offered at the Toowoomba FRC).

What Else You Should Know About FDR at the Toowoomba FRC

MAKING & CANCELLING APPOINTMENTS

If you are unable to attend an appointment at any time, please telephone our office at the earliest opportunity. We do ask that wherever possible, you provide us with 48 hours' notice prior to cancellation so we can 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 circumstance. Client safety is of utmost importance to us. Accordingly, if you have current safety concerns for yourself or your children, we ask that you telephone our office to discuss your concerns with one of our FDRPs prior to your appointments being booked.

Parents are advised to make child care arrangements for all appointments at the FRC as we are unable to provide child care services & your children cannot attend your appointment. The FRC does have a small play area in reception however, so if you have another adult with you, your children can be entertained in the play area under that adult's supervision. 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 you have a private space for you and your FDRP are able to focus on your telephone conversation and because your children should not be able to hear these discussions.

FDRP QUALIFICATIONS & 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 Family Law Act 1975 (Cth) (Family Law 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 at any time during their engagement with our service.

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. Accordingly, we have developed strong connections within the Toowoomba legal community & may be able to refer clients to attend a one-off independent legal advice session free of charge if the client has not already accessed legal advice. We encourage clients to discuss this option with our FDRPs during their Intake Appointment.

SECTION 60I – COURT APPLICATIONS SEEKING PARENTING ORDERS

Family Relationship Centres are funded by the Federal Government to assist parents reach agreements on parenting arrangements with a focus on keeping disputes out of Court. Clients should be aware that unless a recognised exception applies (see Section 60I of the Family Law Act), parents/carers must attempt to resolve parenting disputes through FDR prior to asking the Court to make orders relating to their children. Unless a recognised exception applies, parents/carers must provide evidence to the Court of their attempt to participate in

FDR when they are initiating Court proceedings. The requisite evidence must be in the format of a certificate issued by a FDRP under s60I of the Family Law Act. Our FDRPs are authorised to issue these certificates upon a client's request provided the client(s) meet the eligibility criteria. Clients should also be aware that a Court may take the FDRP's certificate into account when deciding whether to make an order referring parties to FDR or in awarding costs against a person if, for e.g. the litigation is considered by the Court to have been unnecessary.

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 Family Law 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 Family Law Act provides that communications made in FDR are not admissible in any Court 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 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 made available 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 Appointment being scheduled.

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