

Legally Assisted Family Dispute Resolution Information Sheet

What is Legally Assisted Family Dispute Resolution (LAFDR)?

Family Dispute Resolution (FDR) is a form of mediation that provides a safe environment for separated (or separating) couples to discuss and agree on suitable arrangements for their children and property settlement matters. Conventional FDR is conducted by one (or sometimes two) Family Dispute Resolution Practitioners (FDRPs) who work with both parties in the same room.

The Toowoomba FRC provides Legally Assisted Family Dispute Resolution (LAFDR) in appropriate circumstances. This form of FDR typically involves both parties having a lawyer present in the room with the FRDP(s) during the mediation to support the problem-solving and agreement-making phase of FDR. The role of the lawyers in LAFDR is to observe and occasionally ask questions rather than advocate for their client's wishes in the mediation room. Both parties will still be required to verbalise their own concerns and demonstrate a genuine effort to resolve the issues in dispute. Either party can consult with their lawyer

privately during the mediation to ask questions or seek advice as it is needed.

The Toowoomba FRC collaborates with a number of local legal services to provide LAFDR that is non-adversarial and child-focused. In some cases, we can assist parties to access legal representation or parties may wish to bring their existing lawyer. Either way, we generally require both parties to have their own lawyer for LAFDR to occur.

Our FDRPs are trained to manage the difficult emotions that are often associated with FDR and our team of FDRPs are committed to providing an environment that supports both parties to have the difficult conversations that they may otherwise avoid or that may cause conflict between them. Participants and their lawyers will be given the opportunity to listen to both parties' concerns and ideas and then negotiate in good faith towards an outcome that is acceptable to both parties.

Cost of LAFDR:

We are a not-for-profit organisation and some of our fees are subsidised. Your 1.5 hour Individual Pre-FDR Appointment will be provided to you free of charge, as will any group information sessions associated with our FRC programs. If you nominate a particular lawyer to assist you with LAFDR, then this is a private arrangement between you and your lawyer, and you will need to discuss your lawyer's fees directly with them. If you do not have a lawyer, we may be able to

connect you with a lawyer who will assist you in the Joint FDR Session. We encourage you to discuss this option with one of our FDRPs if you have not already engaged a lawyer for family law advice.

Depending on your personal financial circumstances, you may be charged a small contribution fee for the three hour mediation session facilitated at the FRC. This will be charged in accordance with CatholicCare's usual FDR Fee Schedule. Should you require further information about our fees, please contact the FRC on 1300 348 248.

The Benefits of LAFDR

LAFDR can be an effective model of mediation in particularly complex matters or if FDR would otherwise be deemed inappropriate due to the following suitability factors:

- » a history of family violence
- » the likely safety of the parties
- » the equality of bargaining power among the parties
- » the risk that a child may suffer abuse
- » the emotional, psychological and/or physical health of the parties

Some other advantages of LAFDR include the following:

- » LAFDR enables parties to take breaks during the mediation to ask their lawyer questions or obtain advice on issues as they arise in the mediation.
- » LAFDR is private and confidential. Discussions that occur during the mediation cannot be relied upon by either party if your matter later proceeds to Court.
- » If you are able to reach an agreement in LAFDR, the FDRP can draft a Parenting Plan or other written agreement for the parties and the lawyers may then assist the parties to make the agreements enforceable.
- » Decisions can be made in a timely and cost-effective manner, which can avoid the significant financial and emotional costs associated with Court proceedings.
- » Our FDRPs understand that your co-parenting relationship continues well beyond your involvement with our service. For this reason, our FDRPs encourage parents and their lawyers to use constructive and respectful communication with each other at all times during the mediation.
- » If you are unable to reach an agreement in LAFDR and your matter proceeds to Court, you can choose to engage the same lawyer in Court who assisted you in your LAFDR.
- » You get to make decisions together with the other party rather than handing over your decision-making power to a Court.

Is LAFDR Suitable for Me?

LAFDR is a voluntary process that involves both parties willingly engaging and working respectfully with the FDRPs, lawyers and any other participants in the process. If you wish to participate in any form of FDR offered at the Toowoomba FRC and the other party refuses to do so, we may be able to issue a Section 60I Certificate to you, which is required if you want to ask the Courts to make Orders in relation to your children.

The assessment of suitability for LAFDR is made by the FDRP. LAFDR may not be appropriate for everyone or for every dispute. During your individual meetings at the FRC, the FDRP will undertake an assessment as to whether FDR is an appropriate option for your situation and may discuss

the option of LAFDR with you. It is important to be aware that if LAFDR is recommended by the FDRP and LAFDR is declined by one or both parties, the FDRP may determine that FDR is not appropriate to proceed at that time.

You may wish to obtain independent legal advice prior to consenting to LAFDR. We encourage all FRC clients to conduct their own research and seek independent legal advice to ensure our service is appropriate for them and so that they are well-prepared to engage in the services we offer.

We hope this information has been of assistance to you and encourage you to contact us if you have any questions or would like to discuss this option further with us.