

# Important information about Family Dispute Resolution Service

Our service helps people going through a separation to resolve their family law disputes. You may be attending our service because you or the other person in your dispute has seen a lawyer who has referred your case, or because a court or Independent Children's Lawyer has referred your case.

## About family dispute resolution

Family dispute resolution is a type of mediation process. It can be less stressful and less expensive than court. It is confidential, and an independent family dispute resolution practitioner (mediator) helps those involved in a family law dispute to:

- talk about the issues that are not agreed on
- think about different options as well as what is needed for the future
- consider other perspectives.

At dispute resolution, you can:

- develop a parenting plan that sets out arrangements for the care of your children
- sort out financial issues, including how property is divided, spousal maintenance and maintenance for children over 18 years old.

These kinds of agreements can be formalised as consent orders at court.

## When is dispute resolution needed?

Generally, you can only apply to a family law court for an order about your children if you have attempted family dispute resolution and have a certificate from a family dispute resolution practitioner confirming this.

If you are already at court to make arrangements about your children or for property issues, you may still be asked to attempt family dispute resolution. In some cases, the court will run its own dispute resolution conference.

## About our Family Dispute Resolution Service

We run an independent, confidential, lawyer-assisted family dispute resolution service.

## Who can use our service?

To use our Family Dispute Resolution Service, at least one person involved in the dispute must have a lawyer and a grant of legal aid. The other person can use our service without a lawyer if it is not a property dispute, but we strongly encourage everyone to have a lawyer to go through options and attend the conference. This helps to make the best use of the mediation time.

We can refer you to a lawyer.

## Conference locations and format

We hold mediation sessions at many locations in metropolitan and regional Victoria, including at many Victoria Legal Aid offices. We also organise video or telephone conferences. We decide format based on everyone's needs.

## Cost

Our service is free. However, you may have to pay your lawyer's fees if you do not have legal aid.

## Interpreters

You can ask us for an interpreter in your language. You can also ring the Translating and Interpreting Service on **13 14 50** and ask to be put through to Victoria Legal Aid Family Dispute Resolution Service.

## Feeling respected and safe at dispute resolution

We welcome all families, including rainbow families and caregivers of different generations and relationships. We know that each family is unique, and we believe each family matters. We understand that separation is very difficult for everyone in a family and that you may feel uncomfortable talking about it. We try to make sure our service meets the needs of all families, including First Nations families.

## Safety

Safety is a priority. We will ask you if you are worried about your emotional or physical safety in the dispute resolution process, including if there has been family violence.

We will only book a mediation session if we consider it safe to do so.

You and the other person may be in the same room, different rooms or by video or on the telephone. We can also arrange for you and the other party to arrive and leave the mediation at different times, so you do not see each other. Your case manager can:

- help you to develop a safety plan for mediation, so that you feel safe and protected
- give you information and resources to help you make decisions about your safety and that of your family.

## Compulsory intake and assessment

Each person in the dispute must go through intake and assessment, overseen by a family dispute resolution practitioner. This includes an intake interview by phone with a case manager. The case manager will do a full risk assessment to make sure each person is safe in the process and can negotiate freely. They will also gather information to understand your case. If a family dispute resolution practitioner decides mediation is appropriate, then we will book a mediation session for you. A family dispute resolution practitioner (what we call a chairperson) will run your session.

## About our family dispute practitioners

Family dispute resolution practitioners are impartial and do not give legal advice, unless they are also lawyers or it is about procedure. They can use their experience and knowledge about families and children and family law disputes to give you information about what a court will consider. They can also give you information about what may be in the best interests of any children involved in your dispute.

All family dispute resolution practitioners at our service are accredited through the Commonwealth Attorney-General's Department.

## Children's voices in dispute resolution

Under the law, children's best interests are the most important factor. The law requires dispute resolution practitioners, judges, and lawyers to consider issues like children's safety, their views, their developmental and other needs, and parental capacity.

If your dispute is about children's arrangements, we will want to give them a safe opportunity to share their experiences and have a say. We also want parents and carers to have information to help them make decisions.

In appropriate cases, after speaking with parents or carers, we will arrange for young people to speak with a qualified child specialist before a conference takes place. We call this Kid's Talk. The child specialist gives parents or carers feedback by phone. Then they write a confidential written report about the children's experiences. This report is shared with parents and their lawyers and used in the mediation session.

### Children do not attend conferences

You will need to make your own childcare arrangements, so you can fully participate in your intake and assessment and any mediation session.

## Property division through dispute resolution

If you and your former partner have a dispute about dividing property, you may be able to apply for legal aid for a lawyer to prepare for and attend a Family Dispute Resolution Service conference with you. To get legal aid your asset pool must be below a certain amount (not including superannuation) or your claim below a certain amount. There are also other criteria.

The law requires each person in a property dispute to make full and frank financial disclosure. This means that each person must give their ex-partner full details about their financial situation.

To attend a property conference, your case must be appropriate for dispute resolution, and you must have completed our financial statement. Each person needs a lawyer for property conferences.

## Privacy and confidentiality

Generally, all discussions that take place during the family dispute resolution process are **confidential**. This includes discussions through our Kids Talk process, or with anyone at the mediation session. Information from these discussions **cannot be used as evidence in any court or any legal case where evidence is given**.

If you are participating in mediation, it is a serious offence to disclose any information shared in the family dispute resolution process to any other person or body, including a court. Penalties can apply if you do.

In some cases our service must share information. For example if there is a risk of child abuse, we must report this. There are other times we may share information by law, for example if we believe that there is a risk of harm to a person or their property.

## Certificate of dispute resolution

At the end of the process, in children's cases a family dispute practitioner can give you a section 60I certificate to say:

- all the parties attended and made a genuine effort to resolve the dispute
- family dispute resolution started, but part way through the family dispute resolution practitioner decided it was not appropriate to continue
- one party did not attend family dispute resolution
- all the parties attended, but one or both parties did not make a genuine effort to resolve the dispute, or
- the case was not appropriate for family dispute resolution.

If you apply to the court for a parenting order, the judge may take the certificate into account when making decisions in your case, including whether one of you should pay towards the other person's legal costs.

If a court has referred your case to our service, the lawyers may also ask the practitioner to complete a separate Dispute Resolution Certificate confirming dispute resolution was attempted.

## More information, feedback and complaints

For more information about our Family Dispute Resolution Service, please contact us on **1800 136 832** or email **fdrs@vla.vic.gov.au** or visit **www.legalaid.vic.gov.au/fdrs**.

We also encourage you to contact us if you would like to provide feedback at any stage of the process or have a complaint about our service.

If we are unable to resolve any complaint you may contact Internal Legal Services at **complaints@vla.vic.gov.au** or write to **GPO Box 4380 Melbourne Vic 3001**.

[www.legalaid.vic.gov.au/fdrs](http://www.legalaid.vic.gov.au/fdrs)

