



MEDIATION



FREQUENTLY ASKED QUESTIONS

1. What is mediation/family dispute resolution?

Family Dispute Resolution (FDR), often referred to as family mediation, is a process designed to provide parents or interested people in a child's life, a confidential, voluntary and neutral platform to discuss issues relating to their children. It is an opportunity to explore proposals, talk about arrangements, and reach agreements in relation to their children following separation.

2. Do I have to do mediation?

Mediation is a voluntary process in Australia, unless:

1. It has been ordered by the Court; and
2. If you intend to make an Application to the Court, you must attempt mediation first (there are some exceptions to this general rule and we would encourage you to seek legal advice to see if they apply in your case).

3. What happens if the other party does not respond or refuses to mediate?

If the other party doesn't engage in the process, we can issue a Section 60I Certificate which shows that you attempted mediation but it could not proceed due to the failure or refusal of the other party.

4. What is a Section 60I Certificate?

A Section 60I Certificate is a document completed by a Registered Family Dispute Resolution Practitioner under Section 60I of the Family Law Act that shows that an agreement was not reached during the mediation process. They only apply for parenting mediations. It will show whether:

- Mediation was attempted or not
- If mediation was attempted, that you weren't able to reach an agreement
- If mediation wasn't attempted, why it didn't occur

If you would like to take the matter to Court, you generally need to attach a copy of your Section 60I Certificate to your application (there are some exceptions to this rule, and we would encourage you to seek legal advice to see if they apply to you).

5. Why does the mediator need to decide if a matter is 'suitable' for mediation?

Mediators are required to assess matters for suitability under Regulation 25 of the Family Law (Family Dispute Resolution Practitioners) Regulations. Not all matters are suitable for mediation. There are various reasons why a matter might be deemed unsuitable by the mediator. We do not provide reasons as to why a matter was deemed unsuitable. We encourage people to get legal advice if they have questions around this.

6. What does it cost?

Our mediation fees are set by the Australian Government:

	Cost (no GST)
Intake	Free
Pre-mediation session	Free
First mediation session	<ul style="list-style-type: none">• Full fee = first hour free, then \$30/hr per person• Concession* = no fees
Subsequent mediation sessions	<ul style="list-style-type: none">• Full-fee = \$100 per person• Concession* = \$70 per person
*People who earn under \$50,000/yr or who hold a concession card (evidence must be supplied)	

7. Can my kids be involved in the mediation?

Children cannot be involved in the mediation session itself. However, children can be involved in the mediation process if both parents agree. This is known as 'Child Inclusive Mediation' and involves your children meeting with a trained Child Consultant. Your mediator can provide you with more information about this process when you do your intake session.

8. Why do I have to do an education session before mediation?

Doing an education session before mediation generally results in better outcomes for families. A range of topics may be covered such as post-separation communication, age-appropriate arrangements for children, negotiation skills, impacts of conflict on children, and other matters.

9. I have an AVO, can I still mediate?

This will depend on the conditions of your AVO. We will review your AVO and advise whether you can proceed with mediation. If your AVO does not allow for mediation, you can ask the Court to amend the conditions, and we would encourage you to seek legal advice about this.

10. What if I don't feel safe mediating?

Safety is of paramount importance. Our staff will assess your safety at the time of your Request for Service, and again in detail during the confidential intake with your mediator. This is an ongoing assessment throughout the mediation process. We can facilitate various forms of mediation to ensure safety, such as shuttle mediation or online/phone mediation. The mediator will also make an assessment as to whether it is safe to proceed to mediation. In some cases, this may result in the mediation not proceeding and a Section 60I Certificate being issued.

11. Do I need a lawyer?

We always encourage people to seek legal advice prior to mediation so that they are fully informed when they are negotiating agreements. However, it is not a requirement in most parenting matters. If you are doing a property settlement mediation, your mediator will ask you to obtain legal advice either before the first and/or second session of mediation. We can provide you with a list of lawyers in the region, as well as details for free services for you to receive some initial advice.

12. Can I bring my lawyer to the mediation?

Generally, we require both parties to be legally represented, to ensure that there is a balance of power, and everyone is fully informed when they are negotiating. We encourage you to talk to your mediator ahead of time if you wish to bring your lawyer to mediation, so that this can be discussed with the other party. Lawyers are paid for at your own expense. Often, people will opt to have their lawyer available on the phone during the mediation, so that they can take breaks and step aside to call their lawyer before coming back into the session to continue negotiations.

13. Can I bring a support person to the mediation?

In some cases, it may be agreed by the mediator and the other party that support people can be present. Support people are there to support you to conduct yourself in the mediation. They are unable to speak for you or involve themselves in the mediation. Support people need to be discussed and negotiated ahead of time, so please talk to your mediator about this in advance of your mediation.

14. How long does the mediation session go for?

We allow 3 hours for a mediation session. You can use as little or as much time of that 3 hours as you need. If it looks like we need more time, we will schedule another session.

15. What is the timeframe for getting to mediation?

This depends on the level of engagement from both parties. We usually try to have the mediation process completed within 90 days. The quicker each party books into their intake session and completes their education, the quicker we will be able to book your mediation session. Timeframes may unfortunately be extended during particularly busy periods, but we will do our best to accommodate any urgent matters.

16. Will I be in the same room as the other party for mediation?

Not necessarily. Your mediator will discuss this with you in detail during your intake. The mediator will get the views of both parties, but the structure of how the mediation is held is ultimately a decision for the mediator. Where distance plays a factor, we can conduct the mediation via phone/video link.

17. How come you can't tell me specifically what the mediation is about?

Mediation is a confidential process, protected under law. We use the mediation session to allow parties to discuss the issues that are important to them. Mediators do not act as conduits of information prior to or post mediation. We help parties explore topics and options for agreement during the mediation session itself.

18. What happens if we reach agreement?

If you reach agreement during mediation, your mediator will draft a Parenting Plan for parenting matters, or a Heads of Agreement for property matters. These are not legally enforceable documents. Whilst a Parenting Plan does carry legal weight, we would encourage you to seek further legal advice should you wish to formalise your Parenting Plan into Court Orders after the mediation. Similarly, you will need to speak to a lawyer about formalising your Heads of Agreement for property settlement matters.

19. What happens if we don't reach agreement?

Sometimes parties can't reach agreement on all the issues they discuss at mediation. We will often encourage parties to seek some legal advice and return to mediation if they wish. For parenting matters where there are some agreements, we can draft a Partial Parenting Plan and issue a Section 60I Certificate in relation to the remaining issues. Alternatively, if no agreements are made, we can issue a Section 60I Certificate in relation to all issues.

20. I haven't got childcare, can I bring my child/ren to the intake or mediation?

Unfortunately, no. Children are not able to be present during any of the intake sessions or mediation (including if you are doing the session/s by phone or video and have them with you). Our staff will work with you to find a suitable time to do the session when you don't have the children with you.

21. I have special needs, can I access any support?

Yes, of course. Please discuss your needs with our staff when you contact us. We can offer a range of supports within the Family Law Services program and other programs to ensure we are meeting your needs.



Contact Us



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