

# Family Dispute Resolution (mediation)



FAMILY VIOLENCE LAW HELP

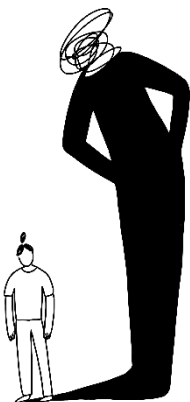
[www.familyviolencelaw.gov.au](http://www.familyviolencelaw.gov.au)



Family Dispute Resolution or 'FDR', is a type of mediation.

It is a way that people can try to sort out their family law problems including arrangements for children without going to the Family Courts.

Unless an exception applies, you must try Family Dispute Resolution (mediation) before you can go to the Family Courts about your children.



Domestic and family violence is an exception to trying Family Dispute Resolution, but sometimes going straight to court may not be the best option for you.

Some people prefer to try Family Dispute Resolution even if there's been domestic or family violence. If you're worried about your safety, steps can be taken to make Family Dispute Resolution safe. You can get legal advice about what is best for you.



Family Dispute Resolution is confidential and can be cheaper, faster and less stressful than going to the Family Courts.

An independent mediator called a Family Dispute Resolution Practitioner will help you try to reach an agreement.



FAMILY  
ADVOCACY  
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SERVICES

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*While we have tried to make the information here as up-to-date and accurate as possible, the law is complex and always changing. All legal problems are different. You should see a lawyer to get advice about your problem. Legal Aid NSW, National Legal Aid and the Commonwealth Attorney-General's Department are not liable for any errors or omissions, or for any loss or damage that arises from any person who relies on any information on this factsheet. This factsheet was developed in 2019.*

## I have experienced domestic and family violence – do I have to go to Family Dispute Resolution?



Usually, you have to try Family Dispute Resolution (mediation) before you go to the Family Courts for Parenting Orders.

If you have experienced domestic and family violence, you can apply for Parenting Orders without trying Family Dispute Resolution and without a certificate.

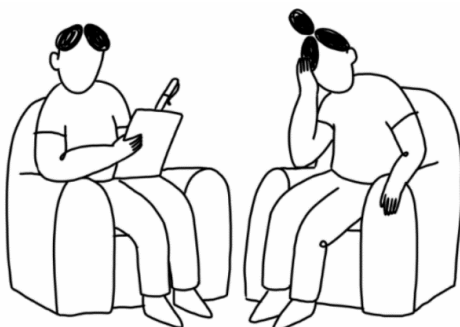
However, sometimes going straight to court may not be the best option for you or you might still want to try Family Dispute Resolution, so it's important to get legal advice.



If you are thinking about doing Family Dispute Resolution, it's important to tell your lawyer or the Family Dispute Resolution service about any domestic and family violence.

The Family Dispute Resolution service may decide:

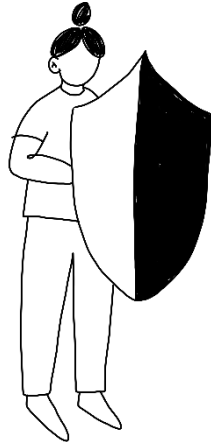
- mediation is not appropriate because of domestic and family violence and will give you a certificate, which you can use to start a court case, or
- even though there's been domestic and family violence, steps can be put in place to make the Family Dispute Resolution safer.



If you have experienced domestic and family violence, you should not ignore an invitation to do Family Dispute Resolution, because a certificate can be issued that says you refused to go.

You should talk to the mediation service about the domestic and family violence and talk about what options you have.

## How can Family Dispute Resolution be made safer?



It's important to get legal advice about whether Family Dispute Resolution (mediation) is appropriate in your case. If Family Dispute Resolution is appropriate, there are different ways it can run to make it safer and fairer - for example:

- telephone - where the mediation is done over the phone so you don't have to be face to face with the other person
- online - where the mediation is done online, like through Skype, so you can be in different locations



- shuttle - where the mediator talks to you and then separately talks to the other person so you don't have to see or hear each other. Sometimes shuttle Family Dispute Resolution is:

- done over the phone - so the mediator talks to one person, hangs up and then calls the other person
- done in the same building - so the mediator talks to a person in one room, then walks to the other room to talk to the other person



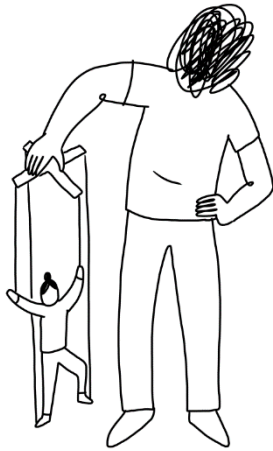
- legally assisted - where you and the other person can have lawyers to help you. You can take breaks from the mediation to get legal advice from your lawyer about your options.

If you're worried about your safety, you should let the mediation service know before the Family Dispute Resolution so they can talk to you about safety arrangements.

If the other person pressures or scares you during the Family Dispute Resolution, the Family Dispute Resolution Practitioner (mediator) can stop the mediation part way through.

## What are the exceptions to doing Family Dispute Resolution?

You must try Family Dispute Resolution (mediation) before you can start a case in the Family Courts, unless one of the following exceptions apply:



- there is a risk of domestic and family violence or child abuse
- your application is urgent (for example, if there is a risk your child will be taken overseas or the other parent will not return the child)
- one parent can't do mediation because of a physical or mental illness, or because of where they live
- you have Parenting Orders that are less than 12 months old, and the other parent has not followed the orders and shown serious disregard for the orders
- you and the other parent are applying for Consent Orders
- the other parent has already started a case in the Family Courts and you are responding to their application for Parenting Orders.



To see if one of these exceptions apply in your case, get legal advice.

Just because you think an exception applies in your case, you should not ignore an invitation to do Family Dispute Resolution because a certificate can be issued that says you refused to go.

Get legal advice about your situation.

## Where can I go for Family Dispute Resolution?

There are many services that help with Family Dispute Resolution (mediation).



You may be able to get legal aid for a lawyer to help you at Family Dispute Resolution. To find out if you are eligible for legal aid and how to apply, contact your local Legal Aid office or Family Advocacy and Support Service. Visit [www.familyviolencelaw.gov.au](http://www.familyviolencelaw.gov.au) to find your local service.

You can also do Family Dispute Resolution at a Family Relationship Centre. These are government-funded services that offer Family Dispute Resolution for free or at a low cost. They can also help with parenting programs and counselling.



To find a government-funded service, call the Family Relationship Advice Line on **1800 050 321** or use the search tool at [www.familyrelationships.gov.au](http://www.familyrelationships.gov.au).

You can also pay a private Family Dispute Resolution Practitioner, you can find one through the [Family Dispute Resolution Register](#).

If you are unsure about what to do or where to go for Family Dispute Resolution, get legal advice.

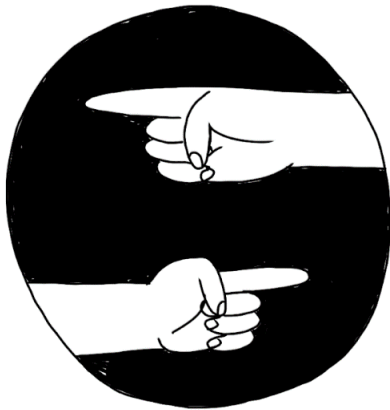
## How much does it cost?

Some government-funded services are free. Others charge different rates depending on your financial situation. Contact the service to ask.



To find a government-funded service, call the Family Relationship Advice Line on **1800 050 321** or use the search tool at [www.familyrelationships.gov.au](http://www.familyrelationships.gov.au).

## What happens if a parent refuses to go to Family Dispute Resolution or doesn't show up?



If one parent refuses to go to Family Dispute Resolution (mediation) or doesn't show up, the Family Dispute Resolution Practitioner (mediator) may give you a certificate that says this.

If you are worried about going to Family Dispute Resolution because you have experienced domestic and family violence, you should get legal advice and let the mediation service know.

If you have experienced domestic and family violence, you should not ignore an invitation to do Family Dispute Resolution, because a certificate can be issued that says you refused to go.



You should talk to the mediation service about the domestic and family violence and talk about what options you have.

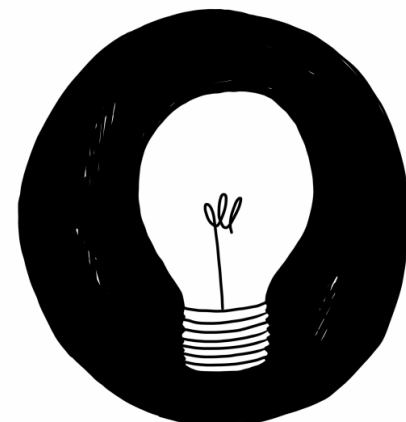
## What if Family Dispute Resolution doesn't work?

If you have tried Family Dispute Resolution (mediation) and it didn't work, you will be given a certificate that says this.

Get legal advice about the next steps to take.

## What does the mediator do?

The mediator is called a Family Dispute Resolution Practitioner or an FDRP. They are a trained person who helps people discuss their family law problems to try to reach an agreement.



They don't take sides, don't tell you what to do and cannot give you legal advice. They do not decide who is right or who is telling the truth. The Family Dispute Resolution Practitioner will not make a decision for you. It is important to get legal advice before doing Family Dispute Resolution.

## What is a section 60I certificate?



A parent usually needs a certificate from a Family Dispute Resolution Practitioner (mediator) before they can go to the Family Courts about arrangements for their children. This is called a Section 60I Certificate. The certificate will say one of the following things:

- a parent refused to go to Family Dispute Resolution, or didn't show up
- a parent didn't go to Family Dispute Resolution because the mediator decided that mediation was not appropriate (for example, because of domestic and family violence)
- both parents went to Family Dispute Resolution and genuinely tried to reach an agreement, but they did not agree
- one parent did not genuinely try to reach an agreement
- both parents went to Family Dispute Resolution, but part way through the mediator decided the mediation was not appropriate.



There will be no extra details about why the certificate was given. Only a mediator who is an accredited Family Dispute Resolution Practitioner can give a certificate.

## Tips for doing Family Dispute Resolution

- Always get legal advice before doing Family Dispute Resolution (mediation).
- You may be able to get legal aid for a lawyer to help you at Family Dispute Resolution. To find out if you are eligible for legal aid, and how to apply, contact your local Legal Aid office or Family Advocacy and Support Service. Visit [www.familyviolencelaw.gov.au](http://www.familyviolencelaw.gov.au) to find your local service.
- If you have experienced domestic and family violence let the mediation service know and give them a copy of any Domestic Violence Orders. Arrangements can be made to make sure the Family Dispute Resolution is safe.

