



## FAMILY DISPUTE RESOLUTION CONFERENCES (PRE – LITIGATION)

This guide is to assist solicitors to prepare for Family Dispute Resolution (FDR) Conferences held at the Legal Services Commission FDR Unit. Following the below processes will assist files to proceed to a Conference as quickly as possible.

### BEFORE A CONFERENCE IS ARRANGED

#### 1. Ensure there is a grant of legal aid for FDR

- At least one party must have a grant of legal aid in South Australia to participate in FDR at the Legal Services Commission. The other party can be represented by either a legal aid lawyer (if they qualify), a private lawyer or attend self-represented.

#### 2. Provide a briefing letter to the FDR unit

Solicitors for an initiating party must provide a comprehensive briefing letter to the FDR Unit once they have funding for FDR. The Briefing letter templates for children's or property matters for FDR are available on the LSC website.

- You must provide all relevant information to the FDR Unit such as Intervention Orders, Bail Agreements or any other existing court orders. As FDR is confidential, the FDR Unit will not share any information you provide with the other party.
- Failing to provide sufficient information to the FDR Unit can cause delay and may lead to the FDR Unit closing the file. For instance, insufficient information about issues which may impact on a conference such as drug use, mental health concerns or family violence are important for the FDR Unit to know. A phone number for the other party is not sufficient. If an initiating party is unable to provide a postal/email address for the other party, the FDR Unit cannot proceed further.

#### 3. Prepare clients for INTAKE & ASSESSMENT

- Under the Regulations, the FDR Unit is required to assess the suitability of FDR by completing an Intake and Assessment process with the parties. This Intake is completed with the clients and not the solicitors.
- The FDR Unit conducts an Intake with the initiating party by sending a list of intake questions directly to them by email and/or will contact them by phone, once the briefing letter is received.
- If the matter is assessed during the Intake as inappropriate for FDR, you will be notified and an appropriate Section 60I Certificate issued.

#### 4. The FDR unit invites the other party

- Once the initiating party has completed the Intake, the FDR Unit will contact the other party (by email or by post) and/or their solicitor inviting them to participate in FDR. The FDR Unit will not invite the other party to participate in FDR **until** the initiating party has completed their Intake.
- In the meantime, if you know the other party is represented, you can write to their solicitor suggesting that they participate in FDR. Waiting time for a Conference may be reduced if the other party confirms via their solicitor that they are willing to participate.
- If the other party is not represented, they can seek legal advice and/or apply for legal aid. This can take some time. The FDR Unit will notify parties if there is anything preventing the matter from progressing.

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## 5. After the FDR Unit invites the other party

- If the other party agrees to participate in FDR, once their Intake is completed, the FDR Unit will contact the parties' solicitors or the self-represented party to arrange a Conference date.
- The FDR Unit provides the other party with every opportunity to participate. If the other party does not wish to participate, you will be notified and the FDR Unit will issue an appropriate Section 60I Certificate.
- Once a Conference is organised, confirmation letters are sent to the parties' solicitors or the self-represented party.
- If a matter involves property settlement, adult child maintenance or spousal maintenance, the parties' financial details are required **before** a Conference can take place. Full and frank disclosure should be provided using the FDR Unit property templates via the Legal Services Commission website.
- If the matter is assessed as unsuitable for FDR at any time during the process, the FDR Unit will notify you and issue the appropriate Section 60I Certificate.

## 6. Questions & queries

- Parties can contact the FDR Unit to ask questions about the Intake process.
- FDR Unit staff cannot provide legal advice or disclose information about either party.

## ONCE A CONFERENCE IS ARRANGED

### Let your client know

- Once you receive written notification of the time and date for the Conference, please ensure you advise your client. The FDR Unit **does not** send a separate notice to parties who are legally represented.
- Please ensure you and your client read and sign the Confidentiality Agreement and Regulation 28 Form. Please return to the FDR Unit before the Conference.

- Please check which type of Conference you have. FDR Conferences are held either by phone or in person.
- If the Conference is being held in person, let them know which entrance they should use. There are different entrances for each of the parties.
- Your client may have **one** support person accompany them to the Conference. Please ensure the support person is aware that they are a silent observer and will not be able to engage in discussions.
- Children are not permitted to attend the Conference.

### Explain the role of the FDR unit and the roles of the people involved

- The FDR Unit provides a confidential and independent dispute resolution service. It has a high success rate in assisting families reach agreements.
- The main benefit of undertaking FDR at the FDR Unit in particular is that the process is facilitated by the involvement of a legally qualified Chairperson and advisors.
- The Chairpersons are neutral, highly trained, experienced and have a background in family law

### Prepare & collate

- Prior to the Conference, prepare thoroughly by:
  - Taking detailed instructions well before the Conference
  - Reality testing about what happens next if the matter does not resolve at a Conference, and
  - Preparing a draft proposal for settlement and providing it to the other party and the FDR Unit prior to the Conference.
- Collect any documents required for the Conference, such as drug screen tests, medical reports, Children's Contact Centre Reports or similar and provide copies to the FDR Unit beforehand.

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## Availability & safety concerns

- Ensure that you and your client are available for the entire duration of the 3 hour Conference (2 hours for a Review Conference). If you brief Counsel, ensure that they are also available for the whole Conference.
- Please do not schedule anything else during this time.
- Ensure you identify any safety concerns or other needs that your client might have and notify the FDR Unit ahead of time.

## AT THE CONFERENCE

### 1. Conference type

- Be ready to go right on time, whether you are attending in person or by telephone / videoconference.
- If you are attending in person, remind your client which entrance to use at our office.
- Most Conferences are conducted by way of a shuttle process where parties are in separate rooms. A round table approach may be facilitated only if and where appropriate.
- Parties and their solicitors are expected to be respectful and make a genuine attempt to resolve issues at the Conference.

### 2. Next steps

- If parties can't reach agreement at a Conference, the Chairperson will discuss next steps and whether a Section 60 I Certificate should be issued.
- In some cases, a Review Conference can be scheduled in the future to review how the agreed arrangements are working.
- If an agreement is reached at the Conference, it should be recorded in writing by the solicitors (in a Heads of Agreement or Draft Minutes of Consent Order) and a signed copy provided to all parties at the end of the Conference.

Thank you for your cooperation. We hope that this guide will help you and your client better understand the process.