



REACHING AGREEMENT

Generally in family law matters (children and property), both parties must try to resolve their dispute before going to court. There are few exceptions. It is important to get legal advice but especially before finalising any agreement, particularly if there has been family violence.

Children

Compulsory Family Dispute Resolution (FDR)

Before going to court, unless an exception applies, parents **must** attempt **Family Dispute Resolution (FDR)** and obtain a **certificate (S. 60I certificate)** from a FDR practitioner.

What is FDR?

FDR is similar to mediation. It involves a formal meeting between the people involved in the dispute, who try to reach agreement with the assistance of a neutral person called a FDR practitioner. Unlike a judge, the FDR practitioner will not make a decision for you. FDR often means both parties are in the same room with the FDR practitioner. If you have concerns about family violence or safety, you can ask for the FDR to be conducted in separate rooms or by telephone.

Exceptions to compulsory FDR

There are two exceptions to attending FDR and/or obtaining a certificate and these are:

1. If you meet the legal requirements set out in the Family Law Act, for example, where there are allegations of child abuse, family violence, urgency or a recent and serious breach of a court order. We strongly recommend that you obtain legal advice before considering applying to court without a certificate.

2. If you commence FDR but your matter is **screened** out as **inappropriate**. Inappropriate matters may be those involving family violence or safety issues, an inequality of bargaining power or a risk of child abuse. If you are 'screened out' the FDR process will stop, a certificate will issue and you can start court proceedings.

FDR can be conducted in cases involving family violence

Despite the exceptions, FDR is often conducted where there has been family violence. This can be very confronting. Always advise the FDR service if you have experienced family violence or have safety concerns for you or your children. It is vital you obtain legal advice before attending FDR in these circumstances. **It is important you know your rights and are well prepared.**

What services offer FDR?

Family Relationship Centres have been set up throughout Queensland to conduct FDR. Other FDR services can be found at www.familyrelationships.gov.au or on 1800 050 321 (Family Relationship Advice Line). If you are eligible, **Legal Aid Queensland** may also conduct an FDR where a lawyer will attend with you. For more information visit www.legalaid.qld.gov.au or phone 1300 65 11 88.

Types of Agreement

If you reach agreement and want it to be legally binding, you must apply for consent orders in the Family Law Courts. If approved, the terms of the agreement become **binding and enforceable** court orders.

If you do not want the agreement to be legally binding but still want evidence of the agreement, you can enter a **parenting plan**. A parenting plan must be in writing, dated, signed by both parents, and set out the agreements regarding children. While not enforceable like a consent order, the court can consider a parenting plan if proceedings start later.

Do not sign anything unless you are sure it is safe and works for you and the children.

Property

There are **pre-action procedures** that must be tried before anyone (married or de facto) can start property proceedings in the Family Law Courts. Pre-action procedures require parties to participate in dispute resolution and, where unsuccessful, write to each other outlining their claim, explore settlement options and disclose all relevant property

information. You may face legal costs if you don't do these things and later file proceedings in the court.

In practice, many separating couples reach agreement during this process without needing to go to court. If you reach agreement, you can finalise the agreement by making an application for consent orders in the Family Law Courts or by entering a Binding Financial Agreement.

You should obtain legal advice before entering any agreement about property settlement to ensure you are receiving what you are legally entitled to and to explore the various options available to you.

You can find more information in our Separation Booklet at <http://www.wlsq.org.au/resources/legal-toolkit>.

This info sheet was developed with the assistance of an *Arrow Energy Brighter Futures community grant*.

Legal Advice:

Women's Legal Service at www.wlqs.org.au or 1800 677 278
North QLD Women's Legal Service at www.nqwls.com.au or 1800 244 50
QLD Community Legal Centres at www.qails.org.au
Legal Aid Queensland at www.legalaid.qld.gov.au or 1300 65 11 88

Domestic Violence Assistance:

DV Connect (24hrs/ 7days) 1800 811 811
QLD DV Services at www.qlddomesticviolencelink.org.au
Call 000 for emergencies or Policelink (non-emergency) 131 444 (24/7)
www.police.qld.gov.au/apps/stationlocator/

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