



BARLING MEDIATION

Agreement to mediate

Family Dispute Resolution (FDR) Agreement to Mediate

Please read this document carefully before signing.

This agreement outlines the terms and conditions under which Family Dispute Resolution Mediation is offered and remains in place for the duration of any services provided.

Signature

By signing this agreement, I agree to participate in this mediation in accordance with the terms set out in this document.

Name	
Date	
Signature	

Fees

1) Payment for services can be made by cash at the appointment or by bank transfer. Details below:

Barling Mediation

BSB: 063 533

Account number: 1094 2515

Please use your name as the reference

Email payment confirmation to julia@barlingmediation.com.au

- 2) Payment is required before the service is provided.
- 3) Fees are payable on a per-person basis.
- 4) Barling Mediation is open to one party paying the full costs associated with the mediation process. This is purely a commercial arrangement and does not change the impartiality of the mediator.
- 5) Refunds are not available if a scheduled session ends early however if any sessions have been prepaid and they do not proceed a partial refund of the mediation fee may be provided.
- 6) Cancellation without notice or a valid reason may result in the mediator terminating the process and issuing a s60i Certificate (parenting only) indicating that you have refused to participate.
- 7) There is no guarantee that the issues in dispute will be resolved. No refunds will be issued in the event of a mediation that does not result in an agreement.

Standard Fees are listed below (all amounts are inclusive of GST)

Service to be provided	Amount Payable
Pre-Mediation Party One	\$385
Pre-Mediation Party Two	\$385
3 hour Mediation – Party One	\$1,100
3 hour Mediation – Party Two	\$1,100

If matters remain unresolved after the first mediation session and the parties agree to schedule a second conference, an additional mediation fee is payable by each party.

If mediation is scheduled for parenting and property matters, two mediations are generally required. There is generally no additional pre-mediation required for a second conference.

FDRP's qualifications

Your mediation will be facilitated by Julia Barling who is an accredited Family Dispute Resolution Practitioner. She has met the requirements of the Australian Attorney General's Department for registration as a Family Dispute Resolution Practitioner.

Julia's profile is available on our website and on the information booklet provided.

Services Available

In person or lawyer inclusive

Barling Mediation can conduct mediations with participants directly or a lawyer inclusive process.

To ensure an equal playing field, lawyer inclusive processes are only appropriate if both parties have legal representation.

Face to face

The family dispute resolution services that Barling Mediation provides can be delivered in person at a location nominated by and agreed by the parties.

Online

Online mediations using zoom technology, or another application of the parties' choice are also available if the parties agree or if the Family Dispute Resolution Practitioner has any safety concerns that could be managed by conducting an online mediation.

Shuttle

Shuttle mediation is available either in person or online if appropriate.

Mediator facilitated negotiation

Mediator Facilitated Negotiation is also possible where the mediator facilitates negotiation by exchanging proposals between the people via individual video meetings, phone and email discussions.

Participating in any of these processes satisfy the requirements of the FDR regulations and allows the Family Dispute Resolution Practitioner to issue a section 60i certificate.

Confidentiality and Inadmissibility

The *Family Law Act 1975 (Cth)* provides that anything said or done during the FDR process is not admissible (able to be used as evidence) in any court proceedings.

- a) Barling Mediation undertakes not to disclose confidential information unless permitted or required. By entering into this agreement, you undertake not to request that we release information about any confidential communications we have with the other party.
- b) All participants agree to limit discussion of the details of the mediation with people who are part of the process, impacted by the decisions or who are an advisor.
- c) An agreement reached in mediation is not legally enforceable. You can safely consider options and proposals and make trial agreements without risk. Participants are encouraged to seek legal advice about how to make any agreement reached legally enforceable.
- d) The mediator will only discuss details of the mediation in accordance with their professional obligations which include with permission of the parties, if required to protect someone from harm or other permitted exception such as in professional supervision or if ordered to do so by a court.

Your confidential information may be disclosed in the following situations. If your mediator believes that disclosure is reasonably necessary:

- a) To protect a child from physical or psychological harm or from being exposed or subjected to abuse, neglect or family violence.
- b) To prevent or lessen a serious and imminent threat to the life or health of a person or the property of a person.
- c) To report the commission or prevent the likely commission of an offence involving violence, or a threat of violence to a person, or a threat of damage to property.
- d) To assist an Independent Children's Lawyer (ICL) to properly represent a child's interests.
- e) To enable FDR practitioner/s to properly complete their role including issuing of a section 60i certificate if required.

Expectations

FDR Mediation can help you to resolve disputes about money, property and children following separation and divorce. By agreeing to participate in this process you must agree to:

- a) Participate in good faith with an intention to resolve issues.
- b) In property and/or financial discussions, provide full and frank disclosure (be honest) about your financial position, assets and liabilities and any other relevant information that relates to the issues being discussed.
- c) Be willing to put proposals, consider options and alternatives for resolution of issues and to consider the needs of all people related to the dispute.
- d) Seek legal and other advice as necessary to ensure that you are informed about your rights and obligations. If you feel unable to make a decision until further advice is sought, you may let the Family Dispute Resolution Practitioner know and a follow up session can be scheduled.
- e) At all times consider the impact of your behaviour and decisions on others, especially any children or other vulnerable people impacted by your decision making.

Your Rights

You have the right to be safe and to be treated fairly and respectfully during the Family Dispute Resolution Process.

- a) You can expect the FDR Practitioner to undertake risk screening to determine any risks to safety during the process and discuss the risks with you if they consider it safe to do so.
- b) Ground rules will be enforced to prevent abusive, disrespectful, coercive or threatening behaviour. The mediator may choose to use a shuttle process where there is no direct communication if they believe it is necessary.
- c) All decisions you make in mediation are voluntary and there is no obligation to reach agreement during family dispute resolution. Ask to speak privately with the mediator if you are feeling pressured.
- d) All participants have the right to end the process, request an adjournment to seek professional advice or to request a break.
- e) You have the right to speak for yourself and be treated with respect during this process. The participation of legal advisors is permitted only if it will not cause one party to be disadvantaged in the negotiations.

FDR Practitioner's Role and Responsibility

In agreeing to facilitate the Family Dispute Resolution Process the FDR Practitioners agree to provide FDR services in accordance with this Agreement and the provisions of the *Family Law Act 1975 (Cth)* and the *Family Law (Family Dispute Resolution Practitioners) Regulations 2008*.

- a) The FDR practitioner must make sure that the process is safe and may stop the FDR process at any time, if for any reason, it becomes inappropriate to proceed. The practitioner does not have to tell you their reasons for stopping a FDR session or process.
- b) The FDR practitioner will remain impartial and will not support the interests of one participant over another.
- f) The FDR Practitioner will disclose any potential conflict of interest or potential for bias which may be relevant to the issues to be resolved and will only facilitate the process if they believe they can remain impartial. A prior professional or personal relationship with one of the participants is a potential conflict of interest. An alternative practitioner will be provided unless all participants agree in writing that the previous relationship is not one that is likely to affect the practitioner's neutrality in their provision of these services.
- c) If the FDR practitioner is also a lawyer or barrister, they will not act as a legal representative for any participant during or after the FDR process in relation to any matter relevant to the issues discussed.
- d) The FDR Practitioner may conduct a Dispute Diagnostic session but would generally not provide coaching services to people they are mediating with.
- e) The FDR Practitioner will not be available to assist either party in court or any other adversarial process.

Section 60i Certificates

If the issues to be resolved relate to children, the practitioner may be required to issue a certificate in accordance with Section 60i of the *Family Law Act 1975*. A section 60i certificate will state whether mediation has taken place, whether either party refused to attend mediation or if mediation is not suitable for your family. A section 60i certificate is required if agreement is not reached and either party decides to issue Court proceedings.

- a) The practitioner has final say on the type of certificate they issue.
- b) Refusal to pay for FDR when you have not provided any evidence of your inability to pay is generally regarded as refusal to participate.
- c) If you are unhappy with the section 60i certificate issued you can choose to attend further FDR with a different practitioner.
- d) Courts may order you to attend FDR again or award court costs against one of you if there is a failure to attend FDR when it is considered appropriate or for not making a genuine effort in Family Dispute Resolution.

A section 60i Certificate is valid for 12 months from the date of the last mediation session, decision by the mediator to end the process or refusal by a party to participate noted on the certificate.

If an Agreement is Reached

Your FDR Practitioner will help you document any agreements reached. This document will not be a legally enforceable agreement.

The Family Law Act 1975 establishes requirements to make agreements reached regarding parenting or property settlements legally enforceable.

- a) A written or verbal agreement about children is called a Parenting Agreement. It is not legally enforceable and is not evidence that an agreement exists for a court.
- b) A written, signed and dated agreement between the parents or legal guardians of a child is called a Parenting Plan. A Parenting Plan is not legally enforceable, but can be produced to the Court and considered by a family court Judge.
- c) A parenting plan, whilst not legally enforceable, can modify the terms of a Parenting Order, unless the order specifically indicates that it can only be replaced by another order. If your parenting plan modifies clauses in a Parenting Order there will be no breach of the order.
- d) A written or verbal agreement about finances or property is not legally enforceable even if it is signed and dated.
- e) If you reach agreement in Family Dispute Resolution you can apply to the Family Court for a Consent Order. This is a non-adversarial administrative process and does not generally require attendance at the Court.
- f) You can also make a property agreement legally enforceable by working with two independent lawyers to enter into a Binding Financial Agreement. This type of agreement is a contract that is not lodged with the court.
- g) Property Consent Orders are recommended if you have assets or debts to distribute, need to refinance, seek a superannuation transfer, or stamp duty exemption. Consent Orders are legally enforceable and final.

Feedback and Complaints

We invite you to provide feedback on your mediation experience by contacting us at julia@barlingmediation.com.au

If you have a complaint about the Family Dispute Resolution service, we encourage you in the first instance address any issues or concerns to the FDR practitioner.

Should your concerns not be fully resolved you may contact Barling Mediation's complaint handling body Mediation Institute:

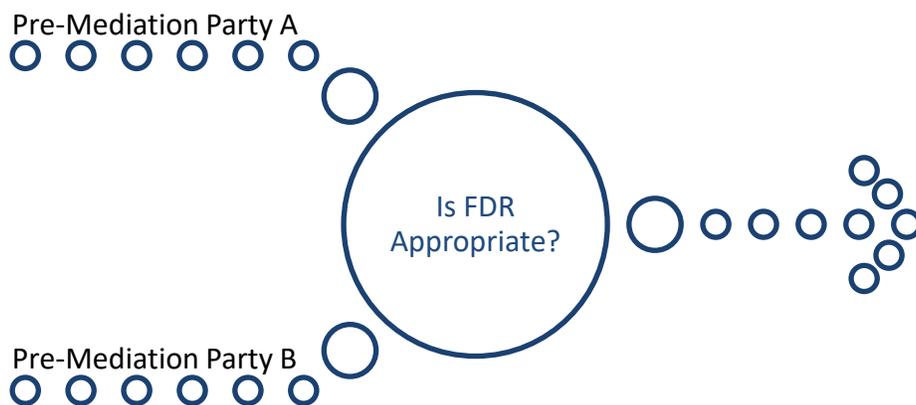
<https://www.mediationinstitute.edu.au/complaint-handling-service/>

The Family Dispute Resolution (FDR) Process

FDR Pre-Mediation Preparation Process

Pre-mediation includes meeting with each participant privately and confidentially in person, via video meeting or phone to determine if FDR is appropriate and to help you to prepare.

If your mediation is for property FDR there will be information you need to gather before mediation can occur.

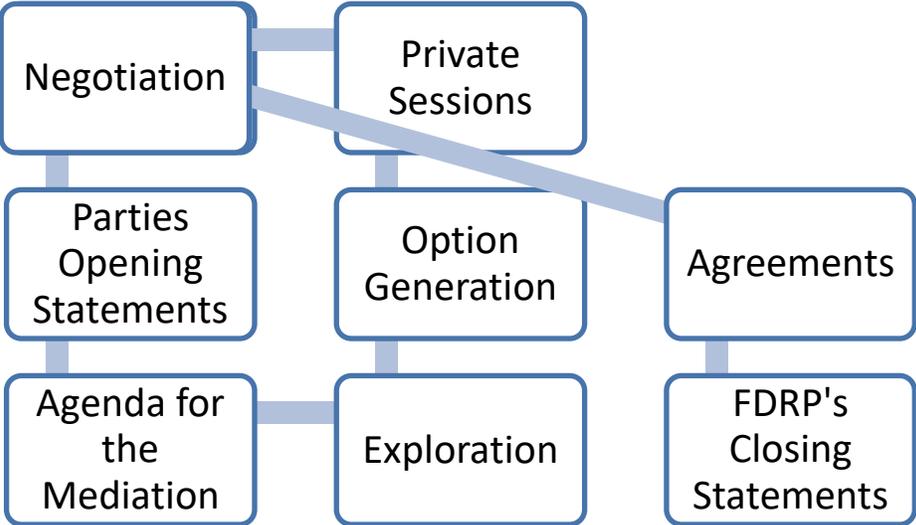


Ground Rules for Mediation

- Respectful and moderate behaviour (no venting or lashing out, ask for a break if you need to calm down)
- Managing your emotions and asking questions to clarify before responding to proposals
- Flexible thinking and a willingness to consider proposals and options
- Full and frank disclosure (telling the truth)

Parenting FDR Process

To negotiate parenting agreements, review parenting agreements and plans and put in place parenting plans to replace the terms of parenting orders (where permitted by the order).



Property FDR Process

To negotiate property settlement and financial agreements following separation suitable to be used as the basis for Property Orders in the family courts of Australia.

