

FAMILY MEDIATION



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A GUIDE TO FAMILY MEDIATION AND
PARENTING ARRANGEMENTS



WELCOME

We hope this fact sheet provides an insight to the process of family mediation, practitioner obligations, and factors that you may wish to consider before you embark on discussions with your ex-partner about parenting arrangements.



MEDIATION

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FOREWORD

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SECTION 1

This guide is not intended to be taken as professional advice and so should not be relied upon as legal advice or counselling.

If you need legal, financial or health care assistance to assist in your preparation for parenting and/or property matters, please consider consulting an independent professional who practises in the area of expertise to meet your needs.

A registered Family Dispute Resolution Practitioner has a professional and ethical obligation to remain impartial at all times and will not make decisions or advocate on your behalf. They are not able to provide you with counselling, financial or legal advice.



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WHAT IS FAMILY MEDIATION AND WHY SHOULD I CONSIDER PARTICIPATING?

Family mediation is a structured process of facilitated discussions between people who have been married or were living in a de facto relationship and who wish to finalise a separation but are not able to due to a dispute or conflict about the final arrangements. Family Mediation is intended to assist people to settle disputes about parenting arrangements and/or property division, without the need to go to court.

The discussions are led by a qualified and registered Family Dispute Resolution Practitioner (FDRP) who remains impartial but helps to keep the parties on track and focussed on the issues.



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MEDIATOR PROBLEM DISPUTE

COMPELLING REASONS TO MAKE A GENUINE EFFORT

The law requires separating families who have a dispute regarding children to make a genuine effort to reach an agreement through Family Dispute Resolution (FDR) before filing an application for parenting orders in court. Only limited circumstances may exempt a party from attempting mediation first.

Family mediation is a child focussed dispute resolution process about the future care and wellbeing of the children. The agreement may be drafted as a parenting plan or formalised as consent orders. If you do not reach an agreement after a genuine effort has been made during family mediation, then either party may request the FDRP to issue a section 60I certificate. This will allow either party to apply to the court for a parenting order.

PRIMARY FACTORS TO CONSIDER

The *Family Law Act 1975* deals with parenting disputes. The Federal Circuit and Family Court of Australia has jurisdiction in this area.

When making orders, the Court must have regard for the best interests of the child which include the need to protect the child from physical or psychological harm such as exposure to abuse, neglect or family violence; and ensure that the child has the right to spend time and communicate regularly with both parents and others who are significant to their care, welfare, and development.

Family Law is complex and for that reason, a lawyer who practises in the area of family law may assist you further with preliminary advice about your matter.



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ROLE OF THE FDRP

The FDRP is an independent person with specialist skills, training and qualifications that empower the parties to reach a mutual agreement regarding parenting matters. The aim is to create a safe, supportive environment to facilitate child focussed discussions. They are accredited under the *Family Law (Family Dispute Resolution Practitioners) Regulations 2008* and must be registered with the Commonwealth Attorney-General's Department.





FIRST SESSION

Once the parties have mutually decided to commence the process, the FDRP will make contact with both parties to arrange a confidential session to discuss the dispute with each parent to understand perspectives. They won't take sides but they will assist the parties to prepare for mediation.

It's during this session that a FDRP will ask key questions to ensure that it is safe to proceed and to consider any necessary adjustments that may need to be made to the process.



MEDIATION SESSION

On the day of mediation, the FDRP will open the session by providing the parties with information about how the mediation will proceed. It may be conducted in a number of ways including joint and separate sessions or the FDRP may decide to shuttle between the parties. It may also be beneficial for the parties to participate with a co-mediator (at least one FDRP and an accredited mediator).

On occasions, depending on the circumstances, specialist representatives may be involved in the mediation, such as lawyers or child psychologists.



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Family mediation is not intended to be adversarial. The main aim of the process is to keep the parties out of court. While the steps of mediation may seem structured, we encourage parties to feel relaxed and confident to raise important issues regarding the children's best interests and their care arrangements.

More and more parents are requesting that mediation is conducted by video conference. At AMS we use the Zoom video conferencing platform. We find that parents feel more relaxed in their own surrounds or at their legal representative's office. If you have reliable Wi-Fi and a device with a video camera attached, then you will only need to download the free software as the first step. The FDRP will send the parties a secure link to access the remote session. Be sure to make arrangements so that you can be in your private space without distractions, which may include asking a friend or family member to care for the children. Allow approximately 4-6 hours of uninterrupted time. An in-person mediation can be arranged, however this will increase the costs for the hire of the conference rooms.

The following page sets out a few tips on how to prepare for family mediation to maximise the best use of the time and the process.

PREPARING FOR MEDIATION



THE LAWYER'S ROLE

While you are not required to have legal representation during family mediation, a lawyer may assist in moving the process toward an agreement.

Lawyers can be a voice of reason during a very emotional time. They are experts in the law and they are able to separate themselves from the conflict and negotiate pragmatically on your behalf. That doesn't mean that you take a back seat in the process. We encourage you to listen to your lawyer's valuable advice, but we also empower you to put your perspectives forward, to be heard and to make the decisions about your child's best interest.

CONSIDERATIONS

While Family mediation is a primary service at AMS, we acknowledge it's not something that parents are familiar with.

Before you commence discussions about the care arrangements, you may wish to consider making notes about the practical solutions to address the care arrangements for the children and how this might impact everyone, but primarily the children. If your children are young, this may also mean addressing their future developmental needs.



OPTIONS, COMPROMISE & AGREEMENT

The success of family mediation relies on tabling as many options as possible about how to best care for children as co-parents. The parents remain in control of making the decision, so it's important to put forward as many options as possible during mediation. Once all the options are tabled, there may be some compromise needed to reach a mutual agreement. Compromise however must not be at the cost of the primary wellbeing of the children. If an agreement is reached, a Parenting Plan may be drafted. If there are no agreements reached in one session, parties may consider future sessions until they reach an agreement on all issues. If this is not possible, then a certificate may be requested.



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AMS is not a non-for-profit organisation or government agency, so we are able to provide our registered and accredited services without lengthy waiting times or delay. Once the parties have agreed to engage our services, the process can commence in as little as one week or in some cases only a few days.

We have kept our fees to a minimum, which is why we recommend remote video conferencing to conduct mediation. If an in-person mediation is preferred and agreed, this will increase the fees to cover the costs of the hire of a suitable venue. Our professional fees are charged by the hour at a rate of \$300 + GST shared between the parties for time spent managing the mediation process. Accordingly, parties will be invoiced for the time booked. The Family Dispute Resolution Practitioner may estimate time needed. Fees will be charged for time spent reading submissions, conducting intake sessions, facilitating mediation sessions, drafting parenting plans and issuing section 60I certificates. Parties will be required to pay all invoices within seven (7) days to confirm the commencement of the process. The parties will be responsible for their own additional costs which may include legal representation. In the event that either party cancels services within seven (7) days, all monies paid will be retained.

Parties will be required to agree to the terms of the Family Mediation Service Agreement which will cover aspects of confidentiality and scope of Family Mediation.

SERVICE TERMS AND FEES



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Angela Little

OUR
PRACTITIONER

Angela Little is admitted as an Australian Lawyer at the Supreme Court of Victoria. Angela trained in Family Law, but prefers not to practise as a legal practitioner so that she is able to independently specialise in alternative dispute resolution as an accredited mediator and registered Family Dispute Resolution Practitioner.

Angela has successfully completed a Master of Laws (Applied Law) majoring in Family Dispute Resolution Practice and is one of only a limited number of practitioners who has successfully completed this highly regarded post graduate legal qualification. Angela is registered with the Attorney-General's Department, qualifying her to assist separating parents to navigate a better way forward during family mediation or issue section 60I certificates if required. Angela is also a nationally accredited (NMAS) mediator, trained Parenting Co-ordinator listed with Parenting Co-ordination Australia and is a qualified Trainer and Assessor specialising in conflict resolution management. Angela is a skilled and licensed Mental Health First Aid instructor.

Angela has over 30 years experience in people management. Angela is a skilled practitioner who provides a stabilising presence for parties who find themselves in highly emotive and complex disputes with others. She is able to guide parties through respectful discussions and empower them to focus on solutions for the future needs of the children.



"Changes are inevitable and not always controllable. What can be controlled is how you manage, react to and work through the change process"

--- Kelly A Morgan

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