

Family dispute resolution at Legal Aid NSW

Better for you.
Best for your children.



If you have had advice from a lawyer and are considering doing mediation at Legal Aid NSW, this brochure will let you know how you can apply, what to expect at a family dispute resolution mediation, and what to do next.

What is a family dispute resolution mediation?

A family dispute resolution mediation helps families agree about:

- where children will live
- how much time children will spend with family members, and
- what should happen with property or money after a relationship breaks down.

If mediation is not right for you, or you don't make an agreement, you may be able to go to court to work out what will happen with children and property.



How can it help me?

Family dispute resolution is a good way to sort out disagreements about caring for your children or your disputes over property or money. It is confidential, free, faster, and less stressful than going to court.

It can help everyone to focus on the children and work out practical solutions to meet their needs. You will have more say in what happens. You are more likely to get an outcome that suits you, and that will last.

What is family dispute resolution at Legal Aid NSW?

Family dispute resolution at Legal Aid NSW is a mediation service hosted by Legal Aid NSW. We hire an independent mediator to help you reach an agreement. Unlike some other organisations, you can take a lawyer with you to give you advice. A lawyer can also turn any agreement you make into court orders.

The Family Dispute Resolution Service at Legal Aid NSW can hold a family dispute resolution mediation for you before the matter goes to court.

The service has been going for more than 20 years and we use some of the most experienced family mediators in Australia. We are one of the biggest mediation services in the country, holding more than 2700 mediations every year.

Do I have to go to a family dispute resolution mediation?

The *Family Law Act* encourages parties to try to sort out their issues through family dispute resolution instead of going to court.

You must go to a family dispute resolution mediation before you can start a case at court—except in some situations where it would not be suitable.

It may not be suitable to go to a family dispute resolution mediation if:

- your case is urgent
- there is a risk of domestic or family violence, intimidation, or child abuse
- someone can't take part because of a physical or mental illness, or because of where they live, or
- you have parenting orders that are less than 12 months old, and the other person has not kept to these orders.

In these cases, you may be able to go straight to court. You should talk to your lawyer about whether this might be possible in your matter.

What will happen if I don't go?

If your case is suitable for a family dispute resolution mediation, but you don't come, we may give the other party a certificate which says that you didn't attend. They can give that to the court and the court may send you back to a family dispute resolution mediation. The court may also order you to pay the other side's legal costs.

How does a mediation happen?

When Legal Aid NSW gives one of the parties funding for a family dispute resolution mediation, a mediation organiser from Legal Aid NSW will invite the other parties to attend and arrange a time that suits everyone.

The mediation organiser will not be at the mediation.

All invited parties can apply for funding for a lawyer at the mediation. To find out if are eligible to try family dispute resolution at Legal Aid NSW, call LawAccess NSW on

1300 888 529.

What happens before the family dispute resolution mediation?

The mediation organiser will ask all parties or their lawyers to complete an intake and assessment checklist to help us decide whether the matter is right for mediation.

We will also consider your cultural, religious and language background when we organise the mediation.



You should let us know if you have any particular needs. For example, if you need an interpreter, or if you need to take frequent breaks during the mediation for medical reasons.

What happens if a family dispute mediation can't go ahead?

If a party refuses to attend or doesn't turn up, we may give the other party a certificate so that they can go to court.

If we decide that the matter is not suitable for a mediation, we will give all parties a certificate so that they can let the court know of our decision before starting proceedings.

What happens at the mediation?

Family dispute resolution mediations can happen in many locations across NSW. They are mostly held by video link or telephone. The parties have the option of seeing and speaking to each other or seeing and speaking to the mediator only.

A mediation can take up to half a day, so everyone needs to keep at least four hours free.

You cannot bring your children to the mediation.

The mediation will be run by an experienced family dispute resolution practitioner. This person is called the mediator.

All the parties will have an opportunity to talk about the issues that are important to them.

The mediator will:

- ask each party what they want to happen and why
- test if any proposal is practical
- help everyone to listen and talk to each other to try to reach an agreement which can be turned into court orders, and
- ask the lawyer to write up any agreement reached. This could be orders or a parenting plan.

During the mediation, each party will have an opportunity to have time alone with the mediator. What is said in that private meeting will not be shared with the other parties unless the party agrees it can be shared.

What will my lawyer do at the mediation?

Your lawyer will give you legal advice and support and will help you in the discussions between the parties.

The parties with legal aid funding will have a lawyer with them at the mediation, and all other parties can decide whether to pay to bring a lawyer or to represent themselves.

What if I am worried about my safety or my children's safety?

You must tell your lawyer or Legal Aid NSW if you are worried about your safety at a mediation, or if you are worried about your children's safety if the mediation happens.

What happens after the mediation?

If you reach an agreement, it can be made into court orders, or a less formal parenting plan.

If you cannot agree, or if the mediation is stopped, the mediator may issue a certificate so that you can take your matter to court.

If you want to take your matter to court, you will need to apply for legal aid. You may not be eligible for legal aid even if you did mediation through Legal Aid NSW. Check with your lawyer about whether you might be eligible and ask them to submit the application for you.

Do I have to pay anything?

There is no upfront fee. However, if you get a cash payment of \$30,000 or more in a property settlement dispute you must pay a contribution towards the cost of your lawyer.



Am I eligible to do a mediation through Legal Aid NSW?

You need to be eligible under the Legal Aid NSW Early Resolution Assistance (ERA) means and merit tests. Your lawyer will give you advice about whether you are eligible to try family dispute resolution at Legal Aid NSW.

Detailed information about Early Resolution Assistance eligibility is available on the Legal Aid NSW website. To find out if you are eligible to try family dispute resolution at Legal Aid NSW, call LawAccess NSW on **1300 888 529**.

How do I apply?

There is no application form for you or your lawyer to use. You can only apply to do family dispute resolution at Legal Aid NSW through a lawyer at Legal Aid NSW or a private lawyer who is paid by Legal Aid NSW. If your lawyer thinks you are eligible, they will need the following information from you to apply:

Centrelink recipients:

- a copy of your Pensioner card, Centrelink income statement, or consent for Legal Aid NSW to look at your details with Centrelink.

Non-Centrelink recipients:

- a recent payslip or letter from your employer confirming your current salary or wage.
- statements for all accounts showing transactions for the past 3 months.

If you are in a couple, you must give the above information for your partner too.

Other information your lawyer will need to know to apply.

- Details of the other party, including their name, date of birth and contact details.
- The names and dates of birth of your children.
- Details of any apprehended domestic violence order currently in place.
- Details of any family law or children's court orders.
- If you were married, the date you were married.
- If you were in a de facto relationship, the date the de facto relationship started.
- The date you and the other party separated.
- If you are divorced, the date of your divorce.

What do I do if I'm not eligible to do mediation through Legal Aid NSW?

If you are not eligible to try a family dispute mediation at Legal Aid NSW, you can go to a private lawyer or another family dispute resolution provider.

Where can I get more help?

LawAccess NSW

LawAccess NSW is a free information service run by Legal Aid NSW. Click on the Chat with us button at www.legalaid.nsw.gov.au or call **1300 888 529**.

Family Dispute Resolution Service

Legal Aid NSW's mediation service

Call **(02) 9219 5118** or **(02) 9219 5119** or visit www.legalaid.nsw.gov.au/my-problem-is-about/my-family-or-relationship/mediation

Useful contacts

Law Society of NSW Solicitor Referral Service

Call **(02) 9926 0300** for information and referral to private lawyers.

Community Legal Centres NSW

Call **(02) 9212 7333**

Catholic Care Family Dispute Resolution Service

Call **131 819**

Relationships Australia Mediation Service

Call **1300 364 277**

Interrelate Family Centres

Call **1300 473 528**

Uniting Mediation Services

Call **1800 864 846**

This publication is a general guide to the law. You should not rely on it as legal advice, and we recommend that you talk to a lawyer about your situation.

The information is correct at the time of printing, however it may change. For more information contact LawAccess NSW on **1300 888 529**.

This brochure is available in Arabic, Simplified Chinese, Spanish, and Vietnamese.



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www.legalaid.nsw.gov.au

Do you need help to contact us?



If you need an interpreter, call the Translating and Interpreting Service (TIS National) on **131 450** (9am–5pm) and ask for LawAccess NSW.

Do you find it hard to hear or speak?



If you are deaf, or have a hearing or speech impairment, contact us through the [National Relay Service \(NRS\)](#). Ask for LawAccess NSW on **1300 888 529**.