



Family Dispute Resolution / Mediation

Frequently Asked Questions

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Our Mediators



Judy Stewart

Director of Stewart Family Law, Judy Stewart is a Registered Family Dispute Resolution Practitioner and Nationally Accredited Mediator. After an earlier career in social work, Judy Stewart has practised exclusively in family law since 2003. In addition to conducting Mediations since 1995, Judy is also an Accredited Family Law Specialist, Parenting Coordinator, Arbitrator and Collaborative Law Practitioner. Since 2017, Judy has been listed in Doyle's Guide as a recommended Family and Divorce Lawyer and Family Dispute Resolution Practitioner.



Temika Slee

Associate Director of Stewart Family Law, Temika Slee is a Registered Family Dispute Resolution Practitioner. With a double degree in law and journalism, Temika has practised exclusively in family law since 2012 and worked alongside Judy Stewart at Stewart Family Law since 2013. Temika is an Accredited Family Law Specialist, Parenting Coordinator and Collaborative Law Practitioner. Temika is known for taking a conciliatory approach to resolving disputes.



Lauren Holm

Senior Associate at Stewart Family Law, Lauren Holm is a Registered Family Dispute Resolution Practitioner. With a double degree in law and justice, Lauren has practised predominantly in family law since her admission in 2013. Lauren has also worked in London where she gained experience in child protection, insurance and commercial litigation at two magic circle firms and high value taxation litigation.

Costs

Mediation with Judy Stewart: \$550 per hour plus GST

Mediation with Temika Slee: \$450 per hour plus GST

Mediation with Lauren Holm: \$400 per hour plus GST

Rome hire: Rooms available at Stewart Family Law at no cost.

Booking fee: \$400 plus GT (non-refundable fee for correspondence, perusal of material and issuing Section 60I Certificates where appropriate).

Why should I attend mediation?

The vast majority of matters are resolved through the mediation process.

Mediation is far less expensive than going to Court. It is a much quicker and more cost-effective way of resolving a dispute and you each maintain some control over the process. The Court process could take years and cost in excess of \$100,000 each.

Mediation is less adversarial than going to Court. It is generally a more collaborative process as the mediator will work with both parties to find a solution that is mutually agreeable. If you go to Court, a stranger (the Judge) is imposing a solution on your family in relation to how your property is divided and how much time you spend with the children. Neither of you may be happy with the result.

What happens during mediation?

During mediation, our mediators facilitate discussions between the parties and guide them towards a mutually acceptable agreement. The parties are encouraged to express their concerns and interests and to explore options for resolving the dispute.

How long does mediation take?

Every matter is unique. It depends on the issues in dispute. Some disputes are resolved in a matter of hours, whereas others may take all day.

Our mediators charge an hourly rate rather than a flat fee to ensure that the parties do not pay an unused fee. We book the whole day for mediation (even if you anticipate you will not require it).

What can I do to prepare for mediation?

Once both parties have agreed to attend mediation with our office, we will ask you to execute and return the following documents prior to mediation:

1. Mediation Agreement,
2. Parenting/Property Intake form, and
3. Mediation Support Person Acknowledgement.

Our intake form is the minimum information we require. We don't require anything further. It is a matter for you to decide what you wish to send to our office.

Will you impose a solution on me during mediation?

No. Our mediators will attempt to assist the parties to reach their own agreement, but they are not engaged to make decisions about “right” or “wrong” or impose a solution on the parties.

Our mediators will fairly and impartially assist the parties to identify and discuss matters in issue between them with the objective of resolving the dispute.

What happens if we reach a resolution at mediation?

If an agreement is reached, you (or your solicitor if you are legally represented) can draft a Parenting Plan or an Application for Consent Orders and Minutes of Consent.

Given our role as mediators, we are not able to draft any documents.

What happens if we don't reach a resolution at mediation?

If your parenting matter doesn't resolve, our mediators will provide you with a Section 60I Certificate which you can use to apply to Court.

If you attend a Court-referred mediation, we will provide you with a Certificate of Dispute Resolution after mediation. A Certificate of Dispute Resolution is only to be completed for Court-referred mediation when parties have already commenced Court proceedings. Once proceedings have commenced, the Court will order mediation within five months (6.23 Central Practice Direction) and the mediator needs to provide the Certificate of Dispute Resolution to the Applicant.

Do I have to bring a lawyer to mediation?

No. It is a matter for you to decide whether you have a lawyer present at mediation.

It is not a requirement and our mediators often conduct mediation where one or both parties are self-representing. We can keep you updated in relation to whether the other party will attend with a lawyer.

It can be beneficial to have at least one solicitor present so that they can draft a formal agreement if an agreement is reached. Given our role as mediator, they are not able to draft any documents.

If you choose to attend without your solicitor but wish to speak with them during the process, our mediators can facilitate these discussions.



Can I have a support person present at mediation?

Yes. You can bring a support person to mediation; however, (due to confidentiality issues) their presence would need to be approved by the other party. Likewise, if the other party brought a support person to mediation, you would also have to consent to that person being present.

We address the issue of support people on the day of mediation. If there is an issue, the mediation can be run as a shuttle and support people can be with you when the mediator is not in the room.

Will we be in separate rooms for mediation?

Please be assured that you do not need to be in the same room or have any communication with the other party during mediation if you do not wish to do so.

At the commencement of the mediation, the mediator will undertake a brief intake process with each of you in separate rooms. The mediation can then continue as a shuttle mediation, with both parties remaining in separate rooms or Microsoft Teams meetings and the mediator going between the parties. We can ensure that you do not encounter the other party if you have safety concerns.

Alternatively, if both parties agree then mediation can be conducted with both parties (and your solicitors if you are represented) being in the same room.

Do your mediators conduct half-day and full-day mediations?

Yes. Our mediators offer both half-day and full-day mediations. We book the entire day for mediation (even if you anticipate you will only require half a day) and charge on an hourly basis so that you are not paying an unused daily fee. We refund for any time not expended and invoice after the mediation for the number of hours that are required.

Do your mediators conduct intake sessions prior to the day of mediation?

No. Our mediators do not conduct interviews prior to the day of mediation. The intake forms that we send parties upon confirming mediation provide our mediators with the necessary information about the matter without the need for the parties to undergo an intake session prior to mediation.

Our mediators will have a discussion with each party separately at the start of the mediation as part of the intake process. They are also available to answer any of your questions before mediation.

If both parties wish to attend an intake session prior to the day of mediation, this can be arranged at the mediator's hourly rate.



What time does mediation commence?

- Mediation with Judy Stewart usually commences at 9:00 am.
- Mediation with Temika Slee usually commences at 9:30 am.
- Mediation with Lauren Holm usually commences at 9:00 am.

We can start at an alternative time as agreed by the parties and mediator.

Where does mediation occur?

It is a matter for each party to decide how they wish to attend mediation. You can attend mediation by:

- Microsoft Teams meeting,
- Telephone, or
- Attending our office at Level 2, 231 North Quay Brisbane QLD 4000. Our dedicated mediation rooms are available at no extra cost
- Arrange your own mediation rooms by agreement.

There are various options for parking around our office:

- Secure parking at Makerston House is the closest option; and
- Street parking, payable by way of parking meter. However, this option is very limited.

Trains and buses can also bring you to Roma Street Station, which is only a short walk down from our office.

Our mediators can conduct mediation with one party in person and the other by Microsoft Teams or phone.

Can your mediators conduct mediation outside of Brisbane?

Yes. Our mediators can travel to conduct mediation. Travel time is charged at the usual hourly mediation rate. If mediation does not occur at our office, you or your solicitor would be responsible for booking a venue and for any room hire fees incurred. If all parties agreed and it was a suitable venue, mediation can also occur at your solicitor's office.

Alternatively, our mediators can facilitate mediation via telephone conference or Microsoft Teams at no additional cost.

What are your fees?

We charge a non-refundable intake fee of \$400 plus GST. The charge includes organising the mediation and providing the statutory information, perusing any material and issuing a Section 60I Certificate for parenting matters.

Our mediators charge an hourly rate rather than a flat fee to ensure that the parties do not pay an unused daily fee. The cost of mediation with Judy Stewart is \$550 per hour plus GST. The cost of mediation with Temika Slee is \$450 per hour plus GST. The cost of mediation with Lauren Holm is \$400 per hour plus GST.

We request a deposit to cover mediation for four hours; however, we refund for any time not expended. We invoice after the mediation for the number of hours that were required. We have no minimum fee or cancellation fee. Our rooms are available at no additional charge.

What is your cancellation policy?

We have no minimum fee or cancellation fee. Our intake fee is non-refundable.

Can I withdraw from the mediation process at any time?

Yes. Either party can terminate or withdraw from the mediation process at any time by giving notice to our office and the other party. Please be aware that if you withdraw from the mediation process, we may need to issue a Section 60I Certificate to the other party if your matter concerns parenting issues.

Our mediators may also terminate the mediation process at any time. They may use their discretion to terminate the mediation if it will not resolve the issues in dispute or if a party has failed to comply with directions. Our mediators will also terminate the process if their safety or the safety of another party is at risk.

Do your mediators conduct child-inclusive mediations?

Yes. To start the process for a child-inclusive mediation, the children would need to meet with an experienced independent child consultant. The independent child consultant then attends mediation on behalf of the child/ren.

We can recommend the parties to a child consultant; however, it is up to the parties who they engage. We can work with any child consultant appointed.

The parties will need to arrange the child consultant and organise to pay their fees. We can coordinate the date of the mediation with the parties and the child consultant.



What is a Section 60I Certificate?

If the other party declines to attend mediation in parenting matters, a Family Dispute Resolution Practitioner can provide you with a Section 60I Certificate which is valid for 12 months. You can use this certificate to apply to Court. If you apply to Court, the Court is likely to order mediation if it hasn't already occurred.

A practitioner may issue a Section 60I Certificate for the following reasons:

1. If a party declines to attend FDR.
2. If the practitioner believes it is inappropriate to conduct FDR.
3. If the parties attend FDR and make a genuine effort to resolve the issue or issues in dispute.
4. If the parties attend FDR and did not make a genuine effort to resolve the issues in dispute.
5. If the parties begin attending FDR and the practitioner considers it inappropriate to continue mediation.

The Section 60I Certificate is a statutory form and practitioners cannot change the wording.

What is your process for issuing Section 60I Certificates?

The first step is to invite the other party to the mediation. After initial invitations are issued, the other party is provided 7 days to respond. If we do not receive a response within 7 days, our office will issue a follow-up invitation allowing the other side to respond within a short timeframe.

If after this time, our office does not receive a response from the other party, we may issue a Section 60I Certificate. If the other party refuses to mediate with our office, we may issue a Section 60I Certificate. We may also issue a Section 60I Certificate if the other party is delaying the mediation process.

If your matter proceeds to mediation, we will issue a Section 60I Certificate after the conclusion of mediation.

Why have I received an invitation to mediate?

If you have received an invitation to mediate, we have been contacted by the other party who has requested that we invite you to attend mediation conducted by our office. We do not act for the other party, and we are impartial.



How should I respond to your invitation to mediate?

Please let us know as soon as possible whether you agree to attend mediation with our office. If the requesting party has proposed that our fees be split equally, please also let us know whether you agree to share our fees. If you agree to attend mediation, please provide us with your availability from our Mediation Calendar, for our office to propose to the requesting party.

What happens if I decline your invitation to mediate?

For parenting matters, we will need to issue the requesting party with a Section 60I Certificate which can be used to apply to Court. Even if a Section 60I Certificate has been issued, you can still attend mediation elsewhere. Our role is to either conduct a mediation or issue a certificate indicating that you did not wish to attend mediation.

For property matters, we will inform the requesting party that we were unable to organise mediation with you.

What happens if I want to mediate elsewhere?

There is no obligation for you to attend mediation conducted by our mediators. If your matter involves parenting issues, we will need to issue a Section 60I Certificate to the requesting party indicating that you did not wish to attend mediation with our office. This does not preclude you from attending mediation elsewhere in the future.

Likewise, in the event that the requesting party will not attend mediation with another mediator, you can request a Section 60I Certificate from that mediator indicating that the other party refused to attend mediation with that organisation.

What happens if I agree to attend mediation but don't agree to share your fees?

Our policy is that the parties share our fees equally unless otherwise agreed. Mediation cannot proceed without agreement on how our fees are to be split.

We can ask the requesting party if they will pay our full fee. If they do not agree to pay the full fee (and you do not agree to pay half of the fee), we will issue them with a Section 60I Certificate for parenting matters.

Please remember that one half of mediation fees is much cheaper than proceeding to Court. If you do proceed to Court, before making any decision the Court is likely to order you to participate in a mediation with fees split equally.



Can you compel a party to attend mediation?

Unless there is a Court Order requiring attendance, then the other party cannot be compelled to attend mediation.

In the event that your dispute concerns parenting arrangements and the other party does not agree to attend mediation, then we can provide you with a Section 60I Certificate.

Will you issue a Section 60I Certificate to me if the other party doesn't agree to attend mediation on the date I proposed?

It depends. As per the guidelines issued by the Attorney-General's Department and the Family Law (Family Dispute Resolution Practitioners) Regulations 2008 (Commonwealth), practitioners are required to offer a reasonable timeframe and choice of days for attendance at mediation.

We may also issue a Section 60I Certificate if the other party is delaying the mediation process.

Can your mediators provide me with legal advice if they are engaged to act as my mediator?

No. If we are engaged to act as your mediator, we must remain impartial. We cannot provide you with legal advice at any time in the future. Similarly, if you want us to provide you with legal advice, we cannot subsequently act as your mediator.

If you are unsure whether you would like us to act as your mediator or lawyer, please contact our office. If we were to act as your lawyer, we could provide you with advice and a strategy for moving forward. We can also provide you with advice on whether mediation is necessary or if we consider that your matter can be resolved outside of the mediation process.

What is the difference between Family Dispute Resolution and mediation?

Family Dispute Resolution (FDR) is a type of mediation. FDR is specifically designed to resolve disputes related to family matters, such as parenting arrangements.

The term "mediation" can be used in a wide range of disputes beyond family law, including (but not limited to) commercial, workplace and civil disputes.



What is the difference between mediation and parenting coordination?

The purpose of Parenting Coordination is to cooperatively implement the terms of an existing Parenting Plan or Order. Unlike mediation, Parenting Coordination focuses exclusively on specific issues arising from a Parenting Plan or Court Order, such as scheduling conflicts, changeover arrangements, or communication issues between parents. Parenting Coordinators play an ongoing role in facilitating communication and resolving disputes between parents over an extended period, often until the parents voluntarily choose to disengage or the Court determines ongoing assistance is no longer necessary.

This is different from other forms of dispute resolution such as mediation, which may only involve a one-time session aimed at reaching a specific agreement (such as a change in care arrangements). If you wish to alter current parenting arrangements, Mediation may be more appropriate than Parenting Coordination.

What is the difference between mediation and family law arbitration?

Arbitration is an alternative process to Court proceedings, which you and your former partner can engage in by agreement. It involves an independent party (an Arbitrator rather than a Judge) making a binding decision in relation to how your property should be divided. Financial or property disputes between married or de facto couples can be arbitrated. Children's issues cannot be arbitrated.

The decision made by the arbitrator is called an 'arbitral award'. Once the award is registered with the Federal Circuit and Family Court of Australia, it is binding and enforceable. There are limited grounds for challenging or setting aside an arbitral award, such as in circumstances where an error of law has been made.

Unlike an arbitrator, a mediator will not make a binding decision in relation to your property. A mediator will attempt to facilitate agreement between the parties.

A lawyer must represent you at arbitration. It is not a requirement for you to have a lawyer at mediation.



Want more information?

We understand that family law disputes are stressful.
We are here to support you.

If you have more questions, please contact our office on **(07) 3221 0100**
or email info@stewartfamilylaw.com.au.

Our friendly administrative staff are trained to answer your questions in
relation to our mediation process.

