

Foundations of Dispute Resolution Conference

What is a Dispute Resolution Conference?

A Dispute Resolution Conference (DRC) is a process used to assist in the early resolution of care applications other than judicial determination. It is a form of Alternative Dispute Resolution (ADR) and is therefore a confidential process.

A DRC can take place at any stage during legal care proceedings for children and young people (child), at the discretion of the magistrate. A court registrar who is trained in ADR facilitates the DRC in an impartial advisory role, rather than a determinative role as they are responsible for the process, not the outcome.

A DRC can be held under section 65 of the Child and Young Persons Care and Protection Act 1998 and parties may be directed to attend.

The Purpose of Dispute Resolution Conferences

The purpose of DRC is to have parties come together and be provided with an opportunity to make decisions about the action that should be taken for children and young people (child).

A DRC should aim to:

- identify the risks and safety concerns that led to the involvement of DCJ and the Permanency Support Program (PSP) service provider
- identify and clarify family's strengths that includes any progress family members made in addressing the identified concerns for the child
- hear any views expressed by the child from the child's legal representative
- concentrate on whether the parties have the child's best interests at heart
- understand and describe the issues that are in dispute
- identify and clarify matters of agreement of parties
- create options that ensures the safety and welfare of the child and at the same time consider substitutes to the outcome that are sought in the care application
- improve communication between parties

- achieve agreement between parties to prevent or reduce the possibility of any hearing
- devise final or interim orders that may be made by consent.

DRC aims to have all attending parties consider the options for the care of the child and any views expressed by the parents, DCJ, the PSP service provider and the child's legal representative.

DRCs empower parents to find solutions to the risks which has led to their involvement with DCJ. This could mean that a parent consents to attending a parenting or rehabilitation program to address issues such as parenting capacity or alcohol or other drug dependence. Any actions agreed upon at the DRC are to be made in the best interest of the child no matter whether the child's permanency goal is restoration or guardianship.

Who Can Attend a Dispute Resolution Conference?

DRCs are attended by the people who are part of the proceedings and their legal representatives. This would include DCJ, parents and any other person with parental responsibility for the child. If there are other parties who can make a meaningful contribution to the DRC, such as the PSP service provider or carers, DCJ must seek permission from the Court for them to attend.

In general, all parties (except children) are required to attend the dispute resolution conference in person. In light of COVID-19, the use of telephone or video conference may be considered by the Children's Registrar depending on current health advice.

What Does a Dispute Resolution Conference Look Like?

A DRC runs for a minimum of two hours and is held within courthouse accommodation.

DRCs have a set format and are conducted in the following way:

- opening statement by the Children's Registrar outlining the role of all parties present
- explanation of the DRC process
- explanation of confidentiality
- opening statement by each participant outlining all relevant issues that are in dispute
- reflection and summary by the Children's Registrar of everyone's statements
- formulation of an agenda of all the relevant issues to be discussed
- exploration of the agenda

- private sessions involving the Children’s Registrar, the child, parent/s, DCJ or PSP service provider, and their legal representative
- negotiations take place (making and considering actions and arrangement that are in the best interest of the child)
- further private sessions are held where required
- agreement and closure.

Confidentiality

The DRC is confidential and actions and agreements cannot be used without the permission of the parties in attendance. However, there are some exemptions.

The Children’s Registrar may disclose information in the following circumstances:

- if the person from whom the information was obtained has given consent for the information to be disclosed
- if there are reasonable grounds to suspect that a child is at risk of significant harm as per section 23 of [the Act](#) .
- if making a referral for anyone in the DRC is required and consent is given by that person
- in accordance with a requirement imposed by or under a law of the State (other than a requirement imposed by a subpoena or other compulsory process) or the Commonwealth.

Only agreed DRC outcomes are provided to the court. The rest of the DRC process is strictly confidential.

Outcomes of Dispute Resolution Conferencing

If an agreement has been reached by all parties, the Children’s Registrar will provide a report with the agreed outcomes only. All other information shared in the DRC remains confidential. The report will be presented at the next mention date of the matter before the Children’s Court. If agreement is not reached, the Children’s Registrar, in discussion with the parties, will identify the remaining concerns in dispute and the matter will go to hearing and the magistrate will make the decisions required.

The [Children's Court](#) has created a short video to help parents understand what’s involved in a DRC.

PSP Service Provider's Role in Dispute Resolution Conferences

PSP service provider casework staff should be included in DRCs. You and your manager casework attend the DRC to provide information about a child's progress and to be involved in negotiations in relation to your role with the child and family. PSP Service Provider participants in DRC must have the relevant decision-making power for issues being addressed in the DRC.

For example, in a dispute around family time you may need to make decisions around what resources you can provide to supervise family time or organise travel. Throughout the DRC process, you are required to work with the child's parents and other participants towards a mutual agreement that is in the best interest of the child.

See [Alternative Dispute Resolution](#) for more information.

References

Children's Court (2020). Dispute Resolution Conference. Available:
<https://childrenscourt.nsw.gov.au/childrens-court/publications/dispute-resolution-conference.html>

Children's Court (2011). Going to a Dispute Resolution Conference in the Children's Court. Information for parents and carers. Available:
<https://www.childrenscourt.nsw.gov.au/documents/factsheets/aab%20going%20to%20a%20dispute%20resolution%20conference%20-%20information%20for%20parents%20and%20carers.pdf>