

Checklist - FDRP Ethical Practice

When we are marketing and conducting our professional practices, we have some considerations to make in terms of what we are ethically able to do and what we are prohibited from doing.

Do you / have you?	Yes, No,
Conflict of Interest – Have you checked that you haven't previously acted in a	
professional capacity? had previous commercial dealings? have a previous	
personal acquaintance? Do you have a disclosure process if proceeding?	
nappropriate fee structures – Do your fees and charges apply regardless of outcome?	
Do you avoid contingent fee structures where you get a bonus or other benefit for a	
'successful" outcome?	
Referral fees / exchanges - Do you refuse to offer or receive referral fees in any form?	
Do you avoid referring clients to individual providers e.g., in a referral exchange	
program or in circumstance where the referral is not based on the client's needs?	
Client confidentiality – Do you have strong processes in place to protect client	
onfidentiality? Do you store confidential information securely?	
Qualifications – Do you accurately identify your qualifications to be a FDRP in your	
narketing? Do you clarify and work within the scope of your role if you also have other	
professional roles e.g. as a lawyer?	
Costs - Do you provide clear information about the cost of your services in advance	
ncluding any additional costs for disbursements like room hire, travel or over time	
sessions?	
Guarantees - Do you make it clear that you cannot guarantee that the parties will	
reach agreement in FDR?	
nformed Consent – Do you support clients getting legal and other advice needed to	
make informed decision about engaging in FDR and in committing to agreements?	
Do you provide legal information and avoid providing legal advice if you are not a	
awyer? If you are a lawyer Do only provide legal advice that will not bias the process	
or create a conflict of interest?	
Ferms and Conditions - Do you use an Agreement to Mediate or similar document	
explaining the terms and conditions under which your FDR Services are offered?	
Honest – Are you honest in your marketing and advertising e.g. not claiming	
experience you don't have?	
Misleading - Do you avoid misleading claims in your marketing?	
Obligations – Do you comply with the FDR Regs when issuing s60i's? Do you know	
what the obligations are?	
Compulsory Information – Do you provide the Reg. 28 information prior to commencing	3
FDR in a way that is accessible and understandable by clients?	
Professionalism - Do you avoid knocking copy and extend professional courtesy to	
other professionals in your communications?	
Complaint Handling - Do you always maintain a suitable complaints mechanism	
and inform clients how to make a complaint about your services?	
Maintaining Pogistration Do you maintain your registration by complying with	
Maintaining Registration – Do you maintain your registration by complying with	
obligations regarding insurance, updating AG's department quickly when your nformation changes, professional development etc. according to the Regs?	
mormation changes, professional development etc. according to the kegs!	
Other obligations – Do you have any other professional obligations that you need to	
comply with e.g. as a lawyer or psychologist?	

¹This is an area of ambiguity. Referring to individuals is discouraged in the NMAS Practice Standard 8.5 but has been confirmed as appropriate by the AG's Practitioner Registration Unit in response to client needs.



Checklist - FDRP Ethical Practice

Review of your answers

Were there any question marks or "no's"? If you answered no or don't know you will need to check your procedures and processes.

Failing to do any of these things could result in an upheld complaint against you or a claim against your professional indemnity insurance. If severe it could result in the loss of your accreditation as a FDRP.

Resources

Australian Consumer Law

www.consumerlaw.gov.au

Regulated by the Australian Competition and Consumer Commission (ACCC) and state or territory consumer protection agencies. https://www.accc.gov.au/

Family Law (Family Dispute Resolution Practitioners) Regulations 2008 https://www.legislation.gov.au/Details/F2009C00158

Complaints are dealt with by the FDRP's complaint handling body e.g. Mediation Institute https://www.mediationinstitute.edu.au/complaint-handling-service/

If a complaint is made and upheld the Australian Attorney Generals Department will be informed and your registration may be cancelled depending on the seriousness of the infraction. https://www.ag.gov.au/families-and-marriage/families/family-dispute-resolution/information-family-dispute-resolution-practitioners

National Mediator Accreditation System (NMAS)

www.msb.org.au

Regulated by the Recognised Mediator Accreditation Bodies (RMAB's) e.g. Mediation Institute who provide the complaint handling services for the NMAS Mediator. If a complaint is upheld, depending on the issue, your accreditation could be cancelled.

Professional Indemnity Insurance

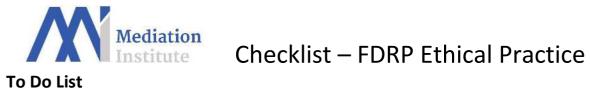
Read your policy to see what you are and are not covered for.

Professional Association

Membership is low cost and members can call and speak with a member of our team to discuss ethical dilemmas and concerns. https://www.mediationinstitute.edu.au/membership/

Mi Mediators Network

A free network for dispute resolution professionals https://network.mediationinstitute.edu.au



What	Details	Done Date