

## GUIDE TO APPLICATION FOR APPOINTMENT AS AN NZLS APPROVED FDR PROVIDER

As an Approved Dispute Resolution Organisation (ADRO) the New Zealand Law Society (NZLS) will appoint individual FDR providers who meet, and continue to meet the requirements and competencies prescribed for FDR.

To be appointed by the NZLS as an FDR provider you will need to meet the core competencies outlined in the 'Competencies – FDR Providers' document at the back of this guide. The NZLS Panel of Mediators – Family Specialist is the gateway to appointment, so you will first need to apply for membership to the Panel if you are not an existing member.

This guide is intended to assist you with the application process.

If you are a current member of the NZLS Panel of Mediators - Family Specialist, go to section A of the guide.

If you are NOT a current member of the NZLS Panel of Mediators – Family Specialist, go to section B of the guide.

### Section A

## FDR PROVIDER APPOINTMENT PROCESS FOR CURRENT NZLS PANEL OF MEDIATOR MEMBERS

**1** Complete an [Application for Appointment as an NZLS Approved FDR Provider](#) and submit to the NZLS (PO Box 5041 Wellington/DX SP20202, Wellington/email [family@lawsociety.org.nz](mailto:family@lawsociety.org.nz)). See below for explanatory notes on the form:

### ■ Qualifying criteria

- Membership of the NZLS and Family Law Section
- Membership of the NZLS Panel of Mediators – Family Specialist
- Mediation experience (outlined below under **Mediation Experience**)
- Family Justice System webinar and FDR Training for Mediators (outlined below under **Training**)

### ■ Mediation Experience

As an ADRO, the NZLS is required to ensure that you meet all qualification and competency requirements.

Reg 7(b) of the FDR Regulations 2013 requires that applicants have enough experience of resolving disputes using mediation to provide reasonable assurance of competence in providing dispute resolution services in the context of Family Court processes.

As such, for assessment of your application we require information on your **recent** professional experience of mediation (as the mediator or co-mediator) in the family or other contexts and specific examples of this experience. This might include experience as a private or EIP mediator or as a mediator in a non-family context.

As a **minimum** we require that you have conducted **at least three mediations** as the mediator or co-mediator in the family or other context.

If you have not yet met this minimum requirement, before continuing with your application, please [consult our website](#) for information on possible pathways to gaining this experience.

### ■ Training

All applicants for appointment as an FDR provider need to have completed the following additional training/education requirements:

1. Participation in the NZLS CLE training 'The New Family Justice System – fundamental changes' (FJS) seminar/webinar held in March 2014 (now available for purchase and download from the [NZLS CLE Ltd Webinar Archive](#)).
2. Satisfactory completion of an 'approved' FDR training course for mediators.

An 'approved' training course includes the NZLS CLE Ltd FDR Training for Mediators (offered in February – April 2014), the NZLS CLE FDR webinar (available online from 18 July 2014), the LEADR one-day training run in February 2014 or four specific modules within the three day AMINZ training (run in February 2014). These four modules were:

- i. The Law and FDR
- ii. Best Interests and Welfare of the Children – Models of Mediation Practice
- iii. Assessing and Managing Risk Before and During Mediation; family Violence and Power Abuse
- iv. What Goes into Agreements and How They Should be Drafted.

If you have completed the FDR training with AMINZ or LEADR you will need to provide a certificate of completion from the training provider and attach it with this application.

If you have not completed an approved FDR training course, you will need to complete the [NZLS CLE Ltd FDR webinar](#) (available online from 18 July 2014) before your application can be finalised.

All training may be able to be credited towards practitioners annual CPD requirements.

## ■ Specialist skills

You are asked to advise if you are proficient in any languages other than English. This is to enable those seeking FDR services, for whom English is not their first language, to search for a mediator who is able to communicate with them in their preferred language.

Reg 7(i) of the FDR Regulations 2013 requires that an FDR provider must be culturally aware, in particular of Māori values and concepts. Please provide details of your experience and/or education in tikanga Māori and cultural awareness.

Reg 7(j) of the FDR Regulations 2013 requires that an FDR provider must be able to address diversity in parties to mediation. Diversity includes but is wider than ethnicity. Please provide details of your experience in addressing diversity in family law, using specific (anonymised) examples.

## ■ Professional supervision

Please read the [NZLS Guideline on Supervision For Mediators](#).

**PLEASE NOTE** - FDR providers appointed by the NZLS must have arrangements in place for regular professional supervision. Professional supervision is distinct from collegial support/supervision as it is a contractual relationship between a supervisee and a trained and accredited professional supervisor.

The frequency and duration of supervision needs to be set at a level to allow all aspects of the supervisee's work to be discussed and to enable the development of a beneficial supervision relationship.

If you do not have existing professional supervision arrangements these will need to be in place before you accept your first FDR assignment. All FDR providers will be required to make a declaration each year confirming that they have appropriate professional supervision arrangements in place.

It is up to individual mediators to choose their own supervisor. There are a number of private organisations and individuals who provide professional supervision services. While NZLS does not endorse or recommend specific providers, one such organisation that can assist mediators with supervision is [ThinkWell](#).

## ■ Referees

Please provide two **independent** referees that the NZLS may contact, if required, to provide professional comment on your application. Referees will ideally have knowledge of your work and experience in family related matters and/or mediation skills, for instance they may have been counsel for the party or Lawyer for the Child in a mediation you have conducted and ideally would themselves be mediators.

## ■ Consent to disclose information

As required by the Ministry of Justice all practitioners appointed by the NZLS as FDR providers will be listed on the NZLS/Family Law Section (FLS) web directories and the Ministry of Justice website. This enables clients to locate FDR providers.

## ■ Appointment/Application to another ADRO

Some mediators may choose to belong to more than one ADRO. It is useful for administrative purposes to be aware where dual memberships exist. Please advise if you are currently listed as an FDR provider with another ADRO or if you have applied for appointment by another ADRO.

## ■ Declarations

You must make a formal declaration that the information that you have provided in your application is true and correct, that you have professional supervision arrangements in place (as outlined above) and that you have read and understand the [NZLS Guidelines for Mediators](#).

## ■ Privacy statement

### Privacy Act 1993

By completing the application you agree that the information provided will be used and held by the Law Society to:

- Process and assess this application
- Maintain a public register of FDR Providers
- Carry out its various regulatory functions under the Lawyers and Conveyancers Act 2006, and including its functions as an Approved Dispute Resolution Organisation under the Family Dispute Resolution Regulations 2013.

The information will not be disclosed or made public other than in accordance with the Privacy Act, Family Dispute Resolution Regulations 2013 or as otherwise required or permitted by law.

A copy of the Law Society's Privacy Policy is available at [www.lawsociety.org.nz](http://www.lawsociety.org.nz).



**2** An expert appointment panel will assess each application made for appointment as an FDR provider. You will not be required to appear before the panel in person, but may be asked for further information if the panel requires it.

**Section B**

## FDR PROVIDER APPOINTMENT PROCESS IF YOU DO NOT ALREADY BELONG TO THE NZLS PANEL OF MEDIATORS – FAMILY SPECIALIST

The NZLS Panel of Mediators – Family Specialist is the gateway to FDR provider appointment. If you are not an existing member of the NZLS Panel, and you wish to be appointed by the NZLS as an FDR provider, you will need to apply for membership of and accreditation to the Panel. This can be done concurrently with your application for FDR provision. You will need to complete the following forms and follow the process outlined in **section A**:

- [Application for Membership of and Accreditation to the NZLS Panel of Mediators- Family Specialist.](#)
- [Application for Appointment as an NZLS Approved FDR Provider.](#)

### POTENTIAL COSTS (GST inclusive)

NZLS FLS membership subscription .....	\$230.00
NZLS Panel application fee (one-off) .....	\$115.00
NZLS Panel annual accreditation fee (first year) .....	\$86.25
NZLS Panel annual accreditation fee (after first year) .....	\$172.50
NZLS Panel alternative qualification assessment fee .....	\$115.00
Additional accredited member certificate .....	\$20.00
Appointment as an FDR provider .....	\$0.00

*\*All fees are inclusive of GST*

### ON-GOING REQUIREMENTS

The Ministry of Justice requires that FDR providers be reappointed annually. To remain on the NZLS Panel as an approved FDR provider, the FDR provider will be required to retain NZLS/FLS membership and to meet annual accreditation requirements including:

- minimum 15 hours of mediation practice and
- minimum 10 hours of professional development or other mediation related activities
- retention of evidential material for up to three years.

At least 10 hours of the combined on-going mediation practice and professional development must be family specific. CPD activities may also count towards NZLS CPD requirements.

Members who do not meet the requirement will not be reappointed as FDR providers.



## COMPETENCIES: FAMILY DISPUTES RESOLUTION (FDR) PROVIDERS

The qualifications and competencies for FDR providers are set out in reg 7 of the Family Dispute Resolution Regulations 2013. Set out below is a summary of the competencies and criteria required of FDR providers that formed the basis for the regulations.

The FDR provider is able to:

### Competency

1. Apply and communicate laws, rules and functions of the Family Justice System.

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2. Comply with professional and ethical principles and practices.

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3. Assess and manage parties for risk factors before and during mediation.

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4. Be culturally aware, in particular of Māori values and concepts, and address the diversity of parties to the mediation

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5. Determine and facilitate an appropriate process to assist parties to reach agreements that are in the best interests and welfare of children.

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6. Use appropriate skills to assist parties to participate in an effective mediation process.

### Judgement/Performance criteria

- The FDR provider:
- Identifies and applies FDR processes in accordance with the law
  - Communicates to parties the FJS process and how FDR operates within it
  - Complies with laws relating to mediation
  - Complies with reporting requirements
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- The FDR provider:
- Operates within applicable codes of conduct
  - Explains ethical responsibilities of FDR provider to parties
  - Operates within the boundaries of the mediator's role
  - Operates within personal levels of expertise and seeks advice where required
  - Demonstrates self-management skills to ensure personal health and well being including:
    - Recognising the potential personal impact of the mediator's personal circumstances, values and beliefs when undertaking mediation
    - Undertaking regular supervision
    - Participating in relevant professional development
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- The FDR provider:
- Identifies and mitigates potential risks for all parties to the FDR processes
  - Assesses parties for evidence of domestic violence using approved screening tools prior to and during mediation
  - Identifies suitability of parties for mediation and takes appropriate action in accordance with legal and ethical obligations
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- The FDR provider:
- Identifies and considers diversity of the parties in selecting an appropriate process
  - Manages the mediation to ensure fairness and inclusiveness
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- The FDR provider:
- Determines an appropriate mediation process for the parties
  - Ensures welfare and best interests of children are kept paramount during FDR processes
  - Conducts the mediation process to maximise optimal outcomes for the parties
  - Ensures children's views are appropriately included in the mediation
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- The FDR provider:
- Establishes guidelines and boundaries for conduct of the mediation
  - Selects and applies relevant mediation strategies and techniques for the situation
  - Creates an inclusive environment to enable full participation of parties
  - Uses a range of communication and interpersonal skills that maximise engagement and assist parties to reach optimal outcomes
  - Facilitates individual and joint meetings of parties



6. Use appropriate skills to assist parties to participate in an effective mediation process.

- Facilitates parties to explore issues fully and move from positions to uncovering interests
- Manages high emotion, power imbalances and capacity of parties effectively
- Uses impasse breaking strategies
- Ensures outcomes are reality tested and accurately recorded

7. Assist parties to the mediation to develop skills and strategies for managing future disagreements.

The FDR provider:

- Models desirable conflict resolution behaviours at all times
- Provides coaching on strategies for resolving future disagreements
- Encourages reflection
- Provides information on support services and how to access them

## GUIDANCE NOTES

1. Family Justice System (FJS) refers to family law as prescribed by legislation.
2. Family Dispute Resolution (FDR) is the process defined in the Family Dispute Resolution Act 2013.
3. Parties include but are not limited to: parents, guardians, grandparents and whānau.
4. "Welfare and best interests of children" is set out in the principles relating to children's welfare and best interests in section 5 of the Care of Children Amendment Act (No. 2) 2013.
5. Risk refers to factors such as violence including domestic violence, mental health, intellectual disability, impact of drugs and alcohol.
6. Effective mediation process may include but is not limited to: preparation, openings, agenda setting, issue exploration, identification of interests, problem solving, private and joint sessions, option generation, negotiation, reality testing, clarification of outcomes and closings.
7. Diversity refers to consideration of differences including gender, sexual identification, race, ethnicity, culture, religion, age, disability.
8. Communication Skills refers to the following:
  - Empathetic and active listening
  - Building rapport
  - Body language
  - Questioning
  - Reflection and feedback
  - Summarising
  - Reframing