

## SPECIALIST PRECEDENT BANK

# FLENA Fact Sheet

The Family Law Education Network of Australia (FLENA) is a Content Partner of Smarter Drafter. The following list details the precedents that are included in the FLENA Precedent Bank.

Following “best practice” principles of Family Law, the FLENA precedents are continually updated to ensure compliance with Federal Court and Family Court of Australia (Family Law) Rules 2021 and Central Practice Directions including the Ancillary Central Practice Directions.

All FLENA precedents are integrated, enabling client data to be pre-populated, with all the major Practice Management providers including Smokeball, LEAP, Clio and Actionstep. By creating FLENA content via Smarter Drafter, a firm can leverage features including digital signatures and direct saving to a firm’s practice or document management system, saving time at each stage of the client matter.

## Family Law

- Family law checklist

### A. Negotiations

- P01 - Initial letter to client on retention
- P02 - Initial formal letter to client RE children and or property
- P03 - Initial formal letter to other party (**self-represented**) RE children and or property
- P04 - Letter to client requesting financial disclosure
- P05 - Initial formal letter to other party’s lawyer RE children and/or property
- P06 - Property division letter of advice
- P07 - Letter to other party following financial disclosure with offer and or proposed mediation
- P08 - Letter to mediator
- Financial disclosure checklist

### B. Final Notice Pre-Proceedings

- P09 - Letter to client with obligations and CPD - pre-filing advice, consider with s190
- P10 - Written notice of intention to commence (wait 14 days prior to filing min)
- P11 - Written notice of intention to commence 2 (no response after 14 days)
- P12 - Written notice of intention to commence 3 (response but no resolution)

### C. Court Proceedings

### Stage 1 - Filing

- P13 - Letter of submissions to the court when filing

### Stage 2 – First Return

- P14 - Cost letter to client
- P15 - Letter to other party and with cost notice
- P16 - Signed statement as to costs
- P17 - Summary position document
- P18 - Cost notice
- P19 - Letter to client RE outcome of court event

### Stage 3 – Interim Hearing

- P20 - Letter to client to confirm no substantial change (property only - 14 days prior)
- P20A - Letter to client to confirm no substantial change (parenting only)
- P21 - Letter to client RE obligations and cost notice (min 7 day prior)
- P22 - Letter to other side RE ready to proceed and attaching interim case outline and minute
- P23 - Letter to Court RE ready to proceed and attaching interim case outline (min 2 days prior)
- P24 - Letter to Court and other party with cost notice (min 1 day prior)
- P25 - Letter of outcome to client following interim hearing (including invoice, outcome, next steps and new timetable)

### Stage 4 – Dispute Resolution and Post Dispute Resolution

- P26 - Letter to client to confirm no substantial change
- P26A - Letter to client to confirm no substantial change (parenting only)
- P27 - Letter to client RE obligations and cost notice
- P28 - Letter to Court and other side attaching cost notice
- P29 - Letter to private mediator and other side
- P30 - Letter to other side RE issues left in dispute (children)
- P30A - Letter to other side RE issues left in dispute (children and property)
- P30B - Letter to other side RE issues left in dispute (property only)
- P31 - Letter to client post FDR
- P32 - CC Compulsory offer of settlement

### Stage 5 – Compliance Readiness Hearing

- P33 - Letter to client confirming no substantial change
- P33A - Letter to client confirming no substantial change (parenting only)
- P34 - Letter to other side with proposed trial plan
- P35 - Letter to other party confirming agreement or no agreement to trial plan
- P36 - Letter to court providing trial plan, directions and compliance
- P37 - Letter to client RE obligations and cost notice
- P38 - Letter to court and other side with cost notice

- P39 - Letter to client RE outcome of date - next step and invoice funds in trust for next steps

### **STAGE 6 – Trial Prep**

- P40 - Letter to client confirming no substantial change (property only)
- P40A - Letter to client confirming no substantial change (parenting only)
- P41 - List of authorities which counsel intends to sight together with copies of any unreported decisions relied upon
- P42 - Letter to expert to notify of need for cross examination
- P43 - Letter to client RE expectations for final hearing

### **Stage 7 – Trial Management Hearing**

- P44 - Letter to client confirming no substantial change
- P44A - Letter to client confirming no substantial change (parenting only)
- P45 - Final cost notice to client
- P46 - Final cost notice to Court and other side
- P47 - Prepare schedule costs if likely cost outcome

### **Stage 8 – Trial / Post Trial and Judgement**

- P48 - Letter to client with outcome, expected time until judgment and tax invoice
- P49 - Letter to client RE Receiving judgment and next steps
- P50 - Final letter to client with summary of outcome and completion

## **D. Specialist Lists**

### **Critical Incident List**

- CIL1 - Letter of submission to Court
- CIL2 - Letter to Client
- CIL3 - Letter to client following allocation to Critical Incident List
- CIL4 - Precedent Orders and Affidavit content

### **Evatt Lighthouse**

- Checklist Evatt
- EV1 - Letter to client identifying the matter as possible Evatt
- EV2 - Letter to client on allocation to Evatt list
- EV3 - Letter to client following matter being set down for an interim hearing
- EV4 - Letter to client when matter is listed for Evatt mention following an interim hearing or DRC
- EV5 - Letter to client RE Evatt matter set down for FDR event
- EV6 - Letter to client following Evatt DRC
- EV7 - Specialist case management mention list of unresolved matters
- EV8 - Letter to client following CRH
- LH1 - Letter to client when filing documents explaining the Lighthouse project

## Major Complex Proceedings

- MCFP1 - Letter to client identifying and explaining MCFP list
- MCFP2 - Letter to Court MCFP team for listing
- MCFP3 - Letter to client confirming MCFP allocation
- MCFP4 - Letter to other party RE MCFP allocation and progression

## E. Special Release Precedents

- SP1 - Letter to client RE Family Law Amendment Act 2023
- SP2 - Joint letter to valuer
- SP3 - Mediation position paper
- SP6A - Letter to client RE affidavit preparation document
- SP6B - Affidavit preparation document
- SP7A - Letter to client's superannuation fund - Notice of proposed orders agreement
- SP7B - Letter to other party's superannuation fund - Notice of proposed orders agreement

## F. Offer Letter Precedents

- FL01 - General offer
- FL02 - Compulsory offer in property proceedings
- FL03 - Open offer
- FL04 - Withdrawal of offer with option for alternative offer
- FL05 - Acceptance of offer
- FL06 - Counter offer
- FL07 - Calderbank offer

## G. Divorce Precedents

- Divorce checklist
- D1 - Initial letter to client on retention for Divorce
- D2 - Initial letter to client seeking additional evidence
- D3 - Letter to other side RE joint Application for Divorce
- D4 - Letter to other side where marriage is less than 2 years
- D5 - Letter to translator
- D6 - Affidavit content - Family counselling
- D7 - Affidavit content - Separated under one roof
- D8 - Affidavit content - Application without a marriage certificate
- D9 - Letter to client providing draft Application for Divorce
- D10 - Letter to other side providing joint application for divorce for signing
- D11 - Letter to process server
- D12 - Letter to client providing filed Application for Divorce (Applicant)
- D13 - Letter to other side providing filed joint application for divorce
- D14 - Orders and Affidavit contents - Substituted service
- D15 - Letter to client providing filed Application for Divorce (Respondent)
- D16 - Letter to other side serving Response to Application for Divorce
- D17 - Letter to client providing field response to application for divorce

- D18 - Submissions for Divorce
- D19 - Letter to client confirming outcome
- D20 - Letter to client providing Order of Divorce

## H. Defaulters List

- DEFL - Checklist
- DEFL1 - Cost notice
- DEFL2A - Letter to client (client IS the defaulting party)
- DEFL2B - Letter to client (client IS NOT the defaulting party)
- DEFL3 - Letter to other party
- DEFL4 - Letter to client serving unfiled notice of ceasing to act - 7 day notice letter
- DEFL5 - Letter to client serving filed notice of ceasing to act
- DEFL6 - Letter to other party serving filed notice of ceasing to act
- DEFL7 - Letter to other party serving additional material
- DEFL8 - Defaulters list submission
- DEFL9 - Letter to client of outcome after court, next steps & invoice, funds in trust for next steps

## Mediation

### Pre Litigation

- Pre litigation FDR checklist

### Child Inclusive Additional Materials

- Child inclusive dispute resolution brochure
- L11 - Letter to client scheduling child inclusive meeting

### Forms, Brochures and Intakes

- Agreement to mediate
- Attendance with AVO ADVO
- Before you file pre-action procedure for financial cases
- Before you file pre-action procedure for parenting cases
- Best interests legislation
- Compulsory pre-filing Family Dispute Resolution court procedures and requirements
- Confidentiality agreement
- FAQ
- FDR brochure
- Fee disclosure brochure
- Third party attendance agreement

### Stage 1 - Engagement and Intake

- L1 - Letter to client - Response to initial enquiry

- L2 - Initial contact letter to other party
- L3 - Letter to contact party advising invitation sent
- L4 - Further letter to other party seeking response if none received within 14 days
- L5 - Letter to agreeing party with intake
- L6 - Letter to other party if no response issue s601 by COB
- L7 - Letter to contacting party providing s601 for refusal or no response
- L8 - Letter chasing intake with deadlines

### Stage 2 - Arranging and Attending FDR

- Consent to child inclusive FDR
- FDRP Confirmation Sheet
- Heads of agreement pro-forma
- L9 - Letter to both parties confirming intakes and to schedule FDR
- L10 - Letter to both parties confirming scheduled conference

### Stage 3 - After Completion and s601 Certificate

- L12 Final letter to client following FDR
- s601 certificate

### In Litigation

- Consent forms
- FDR checklist
- L1 - Initial letter to parties upon engagement
- L2 - Initial letter to lawyer
- L3 - Letter to other party confirming pre conference date
- L4 - Letter following pre-dispute resolution conference
- Pre-conference checklist

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