

# Having trouble dividing your property after a separation or divorce?

*Our Property Arbitration Program can help.*

This factsheet explains how property arbitration works and if you will be eligible for our program.

## What is the Property Arbitration Program and how can it help me?

Property arbitration uses an independent third person to help resolve a dispute.

Through our Property Arbitration Program, we can help you and your ex-partner come to a fair agreement to divide your property and finances after a separation or divorce.

Property arbitration can also save you time and money rather than going through the Family Law Courts. Our program is carried out by experienced and qualified family lawyers who have specialist training in arbitration. Decisions are made in line with current Family Law Courts practices so they will be similar to, if not the same as, decisions made by the Family Law Courts.

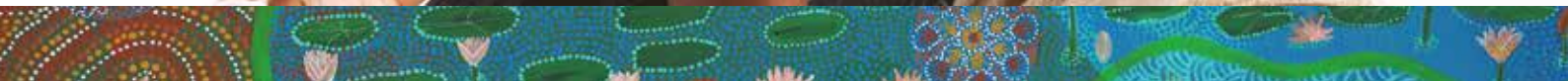
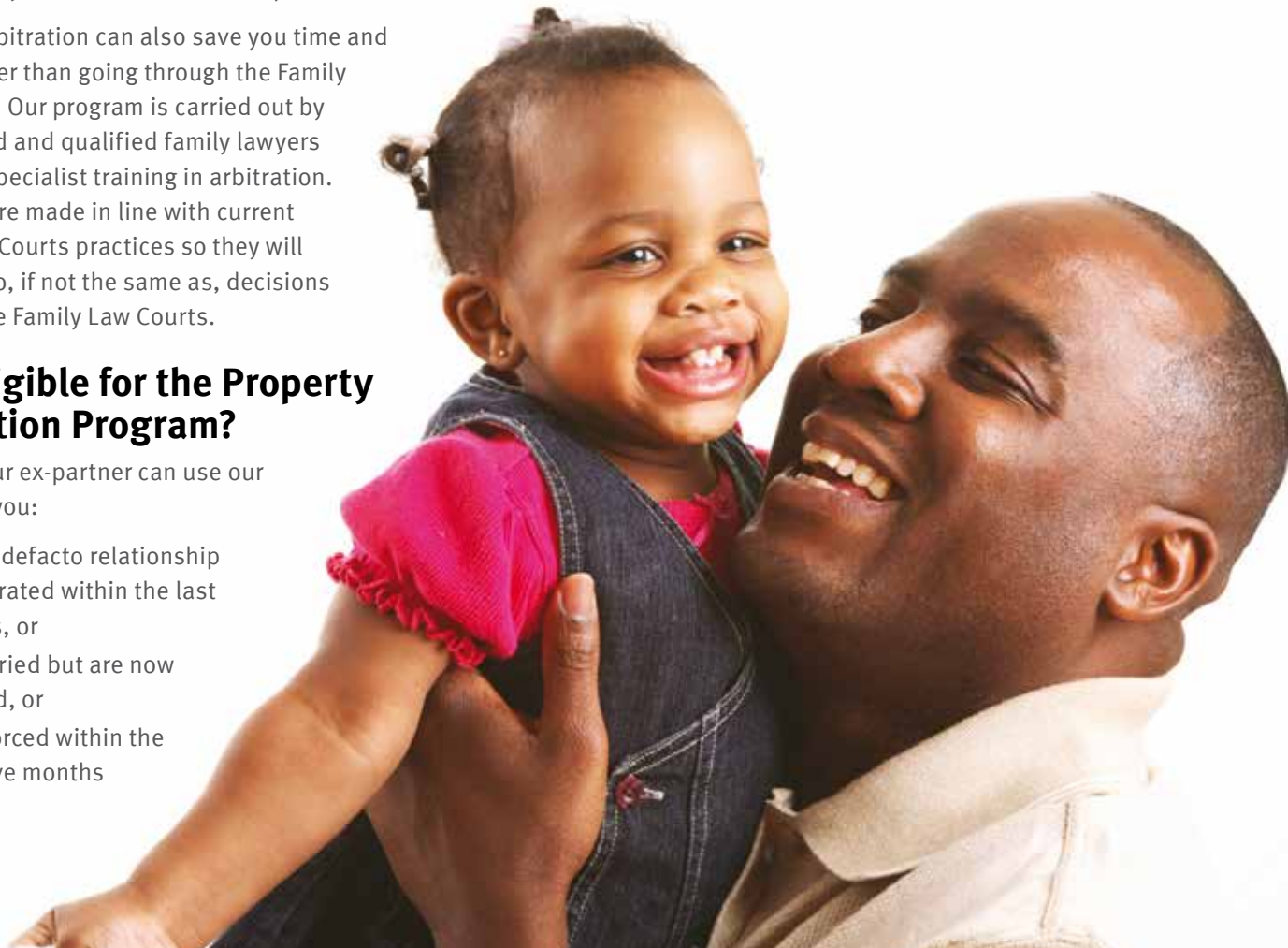
## Am I eligible for the Property Arbitration Program?

You and your ex-partner can use our program if you:

- were in a defacto relationship and separated within the last two years, or
- were married but are now separated, or
- were divorced within the last twelve months

and you:

- meet Legal Aid Queensland's means test
- have property with a total net equity (value of property minus any debts owing) of between \$20,000 and \$500,000 excluding superannuation (with no limit on superannuation)
- have agreed to where your children will live
- where the legally aided person's claim is a maximum of \$25,000 of a larger net equity amount.



## Costs

### How much will property arbitration cost?

Legal aid isn't free. It's a low-cost alternative. If you are eligible for legal aid funding for arbitration, you may still have to contribute towards your legal costs at the end of the arbitration.

If you have a private lawyer, you must pay an upfront cost to Legal Aid Queensland before the arbitration starts, to cover half of the arbitrator's costs. You are also responsible for paying any legal fees directly to the other party's lawyer.

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*“Property arbitration aims to allocate property fairly after a separation or divorce.”*

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## How does property arbitration work?

The property arbitration process follows these steps:

1. You or your ex-partner (the applicant) lodges a *Legal aid application form*, asking for help with a property settlement. You can download the application form from our website or call us on 1300 65 11 88 for the cost of a local call.
2. We review the application to decide if you pass our means and merit tests. If you meet our requirements, we will approve aid for property arbitration.
3. We send the other person (the respondent) a *Legal aid application form* and a *Consent to arbitrate form*.
4. If the other person agrees to take part in property arbitration, they complete both forms and send them back to us.

Both people must agree to take part in property arbitration. If one person does not agree, we cannot proceed with the arbitration process.

If one person does not pass our means and merit tests and cannot receive aid, they can pay for a private lawyer. Under the *Family Law Act 1975* both people in property arbitration must be represented by a lawyer. At least one of you must qualify for legal aid and both must be legally represented throughout the process.



We send you and your ex-partner an arbitration pack and assign a lawyer to people with aid approved. The arbitration pack includes an arbitration statement that asks for information about:

- your financial situation
  - property owned by you and your ex-partner separately and/or together at the start of your relationship, at separation and when applying for property arbitration
  - other information relevant to deciding property issues, as set out by the Family Law Act.
5. You and your ex-partner, through your lawyers, complete the documents in the arbitration pack and send them back to us.
  6. We give the documents to both your lawyer and your ex-partner's lawyer so both of you are aware of what is being said and proposed by the other person.
  7. If either of you wants to respond to the information provided by the other person, complete a Response document and send this to us. The Response document is included in the arbitration pack. Your lawyer can also indicate on the Response document whether you would like your lawyer to make oral submissions on your behalf to the arbitrator (on a date agreed).
  8. We send all documents and information to the arbitrator.
  9. If the arbitrator needs more information before making a decision, we will ask for this extra information through your lawyer. Your lawyer will then make verbal submissions to the arbitrator directly about your case if required.
  10. The arbitrator makes their decision within 28 days of receiving the information and hearing any verbal submissions.
  11. The arbitrator's decision may be lodged with the Family Law Courts, making it legally enforceable.

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*“After our divorce, my ex threatened to take everything we worked so hard for. Using an arbitrator meant our property was split fairly and I could move on with my life sooner.”*

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## What should I do if I am invited to arbitration?

Get legal advice about whether arbitration is right for you. If you don't have a lawyer, call us on 1300 65 11 88 to make an appointment for legal advice or contact your local community legal centre or a private lawyer (at your cost). If you have difficulty communicating in English and need someone who speaks your own language call the Translating and Interpreting Service on 13 14 50 and ask for an interpreter. Ask them to contact Legal Aid Queensland on 1800 998 980. This is a confidential and free service.

## Do I have to attend arbitration?

No, you don't have to attend arbitration. If you don't want to attend, tell the arbitration officer so the file can be closed. It's a good idea to attend arbitration, because if you choose not to attend, we may take this into account when considering requests for further legal aid funding for the matter.

## Disclosure between parties

In family law property matters, each person must give the other all documents and information relevant to the issues that are being disputed.

This is known as full and frank disclosure. If you don't give complete disclosure, this may result in significant penalties for you, including the court giving the other person more assets than they may have otherwise received.

## What if my ex-partner is going to sell our property or empty the bank account?

Get immediate legal advice about your options, whether the property or bank account is in sole or joint names. If you don't have a lawyer, call us on 1300 65 11 88 to make an appointment, or contact your local community legal centre or a private lawyer (at your cost).

## Do I need legal representation?

You must have legal representation to participate in the arbitration. You can apply for a grant of aid for legal representation to help you at the arbitration. If you're not eligible for legal aid, you can arrange for a private lawyer to represent you at the conference (at your own cost).

Both parties can receive legal aid funding, but at least one party must have legal aid funding for us to arrange the arbitration.



## What if my dispute is about property and children's issues?

Please see our *Need help to sort out a family law problem?* factsheet for information about property and children's conferences.

## Is your help confidential?

Yes. Our services are confidential and we are committed to protecting our clients' privacy. We will not provide your personal information or details about your property arbitration to anyone, unless we are legally required to.

## Do you need extra help accessing our services?



We are committed to providing accessible services to Queenslanders from all culturally and linguistically diverse backgrounds. If you would like this publication explained in your language, please phone the Translating and Interpreting Service on 13 14 50 to speak to an interpreter. Ask them to connect you to Legal Aid Queensland on 1800 998 980.

If you are deaf or have a hearing or speech impairment you can contact us using the National Relay Service. Visit [www.relayservice.gov.au](http://www.relayservice.gov.au) and ask for 1800 998 980 (our legal information line). These are free services.

