

# 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 de facto 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 \$400,000
- are willing to follow an arbitrator's decision
- cannot resolve a property dispute without the help of a qualified third person
- have agreed to where your children will live.

## How much will property arbitration cost?

Once your property arbitration has settled, you will get a notice telling you how much you need to pay us back. This amount usually includes your lawyer's fees and half of any outlays we have paid for. Your ex-partner will also pay their lawyer's fees and the other half of our outlays.

Your arbitration costs will not be more than 20 percent of your property settlement's dollar value. Usually the amount is far less.

We pay a much lower fee to lawyers than they usually charge, so your costs will be far less than if you were a private client.

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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.

5. 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.
6. You and your ex-partner, through your lawyers, complete the documents in the arbitration pack and send them back to us.

7. 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.
8. If either of you wants to respond to the information provided by the other person, their lawyer can 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 after all of the information has been provided to the arbitrator.
9. We send all documents and information to the arbitrator.
10. 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.
11. The arbitrator makes their decision within 28 days of receiving the information and hearing any verbal submissions.
12. The arbitrator's decision may be lodged with the Family Law Courts, making it legally enforceable.

## 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.

## Your local Legal Aid Queensland office:

### BRISBANE

44 Herschel St, 4000

### BUNDABERG

3rd Floor, WIN Tower,  
Cnr Quay & Barolin Sts, 4670

### CABOOLTURE

Ground Floor, Kingsgate  
42 King St, 4510

### CAIRNS

Level 2, Cairns Square Complex,  
42-52 Abbott St, 4870

### INALA

Level 1, Inala Commonwealth  
Offices, 20 Wirraway Pde, 4077

### IPSWICH

Level 7, 117 Brisbane St, 4305

### MACKAY

Ground Floor,  
17 Brisbane St, 4740

### MAROOCHYDORE

Ground Floor, M1 Building  
1 Duporth Ave, 4558

### MOUNT ISA

6 Miles St, 4825

### ROCKHAMPTON

Ground Floor, 35 Fitzroy St, 4700

### SOUTHPORT

Level 2, 7 Bay St, 4215

### TOOWOOMBA

1st Floor, 154 Hume St, 4350

### TOWNSVILLE

Level 4, Northern Securities  
Building, 22 Walker St, 4810

### WOODRIDGE

1st Floor, Woodridge Place,  
Cnr Ewing Rd & Carmody St, 4114

**For more information  
about our services visit  
[legaid.qld.gov.au](http://legaid.qld.gov.au)**

or phone **1300 65 11 88** or **1300 650 143**  
(Aboriginal and Torres Strait Islander Information Line)

