

Your family law property arbitration

Everything you need to know about how property arbitration works under our property program

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 resolve a family law property dispute, which can involve dividing 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.

Binding decisions are made by an independent arbitrator, 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?

This service is for family law property disputes:

- with a net equity (the total value of assets less debts) of between \$20,000 and \$500,000 excluding superannuation (with no limit on superannuation), or
- where the legally aided person's claim is a maximum of \$250,000 of a larger net equity.

You may be able to take part in property arbitration if you meet our eligibility criteria and:

- the dispute is about property or other assets you gained during your relationship (including superannuation or funds where you may only receive a benefit later, and spousal maintenance)

- there are no outstanding parenting issues that could affect how the property is divided
- it's been less than 12 months since you were divorced (if you were married) or less than two years since you separated (for de facto couples)—strict time limits apply, so if this has expired, get immediate legal advice about your options (you may still be eligible for a property conference once the time limit issue has been resolved)
- there are no businesses or third-party claims involved in your property dispute, or if there are, you and the other person agree on their value
- there are no trusts, including family trusts, in your matter.



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 a property arbitration. 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 merits tests. If you meet our requirements, we may approve aid for property arbitration. Or, if appropriate, you may be referred to an initial property conference (in which case, please see our *Your family law property conference factsheet*).
3. If approved for arbitration, we will send the other person (the respondent) a *Legal aid application form* and a *Property arbitration intake form*.
4. If the other person agrees to take part in property arbitration, they complete the intake form and send it back to us.

Both people must agree to take part in property arbitration. If one person does not agree, we cannot go ahead with the arbitration process. If one person does not pass our means and merits 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 a *Property statement form* 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 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. You and your ex-partner, through your lawyers, complete a Reply document, as well as a Joint balance sheet, and send these to us. These documents are included in the arbitration pack. Your lawyer can indicate on the Reply document whether you would like your lawyer to make verbal 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 needed.
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.

What if I've already had a family law property conference?

Our family law property conference process is outlined in our *Your family law property conference factsheet*. If you have already participated in a family law property conference, you may be eligible for our streamlined arbitration program, Arb Lite.

Arb Lite uses the documents that were disclosed either during the property conference or during court proceedings, so you don't have to prepare those documents again. If disclosure has already been completed, we may be able to directly appoint an arbitrator. We will decide if your matter is eligible for Arb Lite.

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 participate in arbitration?

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

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).

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

We can't go ahead with arbitration if there are current children's issues. Please see our *Need help to sort out a family law problem?* factsheet for information about property and children's conferences as an alternative.

"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."

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 have to contribute towards your legal costs at the end of the arbitration.

Depending on your financial circumstances, you may have to pay some of your legal costs upfront, before the arbitration. This amount will be decided after reviewing your income and assets.

If you have a private lawyer, you must pay an upfront fee to Legal Aid Queensland before the arbitrator is appointed, to cover half of the arbitrator's costs. You are also responsible for paying any legal fees directly to your private lawyer.

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.

Disclosure

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. The arbitration may not be able to proceed without full disclosure. However if the arbitration proceeds, the arbitrator may make a decision without the full information.

Do you need extra help accessing our services?

We are committed to providing accessible services to Queenslanders from all culturally and linguistically diverse backgrounds. To have 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.accesshub.gov.au and ask for 1800 998 980. These are free services.

Your local Legal Aid Queensland office:

BRISBANE

44 Herschel St, 4000

BUNDBERG

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
legalaid.qld.gov.au

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

