

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.

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



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.

“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.”

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 will reassess the application to see if another form of aid can be provided to help settle your property dispute.

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. To be eligible for our Property Arbitration Program at least one of you must qualify for legal aid.

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 complete the documents in the arbitration pack and send them back to us.
7. We give the documents to both you and your ex-partner so 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, they can complete a *Response document* and send this to us. The *Response document* is included in the arbitration pack. You can also indicate on the response document whether you would like your solicitor to make oral submissions on your behalf after all 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.

What if English is my second language?

If you would like this factsheet explained in your language, you can contact us through the Translating and Interpreting Service (TIS) on 13 14 50. TIS will organise an interpreter in your language and will connect you to Legal Aid Queensland. This is a confidential and free service.



YOUR LOCAL LEGAL AID QUEENSLAND OFFICE:

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INALA

Level 1, Inala Commonwealth
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IPSWICH

Lvl 7, 117 Brisbane St, 4305

MACKAY

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MAROOCHYDORE

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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

3rd Floor, Northtown
280 Flinders St, 4810

WOODRIDGE

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

For more information
about our services visit
www.legalaid.qld.gov.au
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