

Your family law property conference

Everything you need to know about how conferences work under our lawyer-assisted mediation pilot

Legal Aid Queensland's lawyer-assisted family law mediation and arbitration service resolves less complex property disputes for people not usually eligible for legal aid or who cannot afford legal representation.

The pilot service runs from 1 January 2020 until 31 December 2021 and applies to separated, married and de facto couples.

The 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)
- where the legally-aided person's claim is a maximum of \$250,000 of a larger net equity amount.

What if I am not sure if I meet the net equity criteria?

If you're not sure what property you and your ex-partner have, you may still apply for legal aid. If approved, we may continue to arrange a family law property conference unless new information becomes available that suggests your matter is not eligible for a grant of legal aid under our property program.

If your dispute involves debts only (that is, the total value of the debts is more than any property or superannuation of the parties, sometimes called a "negative property pool" or "negative equity"), we may still be able to give legal help. Call 1300 65 11 88 for more information.

Is a family law property conference for me?

Attending a family dispute resolution conference can help you resolve family law problems about property settlement without going to court.

Why should I attend a conference?

The advantages of reaching an agreement at a conference include:

- Your agreement considers your individual circumstances.
- You make the decision, rather than a court making an order that you may or may not agree with.
- You can raise and discuss issues that can't be mentioned in court proceedings.
- You can avoid the stress and time involved in court proceedings.
- There are low legal costs if you are not eligible for legal aid.



Am I eligible for a property only conference?

You may be able to attend a family dispute resolution conference in relation to property 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 which could affect the division of property
- it's been less than 12 months since you were divorced (if you were married) or less than 2 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 party agree on their value
- there are no trusts, including family trusts, in your matter.

Who will be at the conference?

You, the person you are in dispute with, each person's lawyer and a registered family dispute resolution practitioner (an independent person who will mediate the conference).

Conferences are offered in different formats, so you don't have to be in the same room or building as the other person involved in the dispute.

Do I have to attend a conference?

Attending the conference is voluntary. If you don't want to attend, tell the conference organiser so the conference file can be closed. If you choose not to attend a conference, we may take this into account when considering requests for further funding relating to this property dispute.

If you have any safety concerns, speak to your lawyer. Make sure this information is included in the *Property conference intake form* sent to you by the conference organiser, which will help them make appropriate conference arrangements.

What if I have a domestic violence protection order?

If you have a domestic violence protection order, we will ask for your written approval to hold a conference. You should immediately send a copy of your order to your conference organiser.

Preparing for a family law property conference

What should I think about before the conference?

When people separate, they usually need to sort out how to divide their property (assets and debts). A purpose of a property settlement is to bring an end to the financial relationship between the couple. Some of the things to think about are:

- What property do we own?
- How much is our property currently worth?
- What debts do we owe?
- Do we have superannuation and how much is it worth?
- What is going to happen to our property?
- What do you think would be a fair property split?
- What are the consequences of not negotiating an agreement?



What should I do before the conference?

Complete the *Property conference intake form* sent to you by the conference organiser. We will not set a conference date until we receive all of the forms.

Once the conference organiser has confirmed the conference is going ahead, make an appointment with your lawyer to discuss any arrangements.

Participating in a family law property conference

What if I need an interpreter?

Let your lawyer know as soon as possible if you need an interpreter. Your lawyer will arrange for an interpreter to attend the conference and client-lawyer interviews. If you have legal aid funding approved for the conference, we will pay your interpreter fees.

Do I need legal representation?

You must have legal representation to participate in the conference. You can apply for a grant of aid for legal representation to help you at the conference. 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 conference. You can't attend the conference without a lawyer (eg be self-represented).

Where is the conference held?

The conference is usually held at one of our local offices or by phone from your lawyer's office. We can arrange a telephone conference at:

- a community centre or a courthouse if you live in a remote area and can't travel to your lawyer's office
- your nearest Legal Aid Queensland office.

There are no child-minding facilities, so you should organise childcare as soon as you receive your conference date.

We don't pay parking fees to attend the conference, so please consider other options, such as public transport.

How is the conference held?

Conferences can be held in one room, in separate rooms or buildings, or by telephone. If the conference is held by telephone, this may be where you can hear the other person's voice or only hear the mediator's voice (known as a shuttle conference).

How long will the conference take?

The conference is held during business hours, in the morning or afternoon. We will arrange the conference for a date and time when everyone can attend. A conference can take up to half a day. You should set aside three hours.

What happens during the conference?

When the conference starts, the family dispute resolution practitioner (mediator) will explain how the conference will run. It's their role to help you discuss the issues in dispute and resolve these issues. The family dispute resolution practitioner doesn't give legal advice or make decisions for anyone. Time will be made for you to meet privately with your lawyer and have a break if you need one.

What happens after the conference?

The grant of legal aid includes having your lawyer prepare any agreement reached drafted into a consent order, for filing in court.

If no agreement is reached, the family dispute resolution practitioner makes confidential recommendations to Legal Aid Queensland about continuing your legal aid grant. We will consider the practitioner's recommendations but may not follow them.

What if the conference is not successful?

If a final agreement isn't reached at the conference, you may be eligible for a grant of legal aid for our streamlined property arbitration program. In limited circumstances, you may be eligible for a grant of legal aid to go to court to get an order for property settlement.

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

Get immediate legal advice about your options, even if 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?

Please see our *Need help to sort out a family law problem?* factsheet for information about property and children's conferences. We will consider funding children and property combined conferences where the property (including superannuation) in dispute has a net equity of between \$20,000 and \$400,000.

Costs

How much will the conference cost?

Legal aid isn't free. It is a low-cost alternative.

If you are eligible for legal aid funding for the conference, you may have to pay a contribution toward your legal costs after the property settlement.

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

If you have a private lawyer, you will have to pay an upfront fee to Legal Aid Queensland before the conference starts (covering your half share of the family dispute resolution practitioner's costs). You are also responsible for paying any legal fees directly to your lawyer.

Applying for legal aid for a conference

To apply for legal aid funding, fill out a *Legal Aid Queensland application form* and send it to us along with any financial documents needed. You should get legal advice about your matter before completing the form.

Legal aid funding for a conference is available to anyone meeting the income, asset and merits tests. If you receive a grant of aid, we will pay your lawyer's fees for attending the conference, subject to any conditions listed.

Confidentiality

Is the conference confidential?

The conference is confidential so everyone can speak freely. Information that affects a person's safety, intentional damage to property, or the commission of a crime cannot be kept secret.

Disclosure

In family law property matters, both of you must give the other all documents and information relevant to the issues in dispute. 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.

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

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
legalaid.qld.gov.au

or phone 1300 65 11 88
or 1300 650 143 (Indigenous Hotline)

