



Arbitration

A real option in Family Law
FAMILY COURT OF WESTERN AUSTRALIA

This brochure will tell you

This brochure will help you understand arbitration and how it can assist you in resolving disputes over property and maintenance.

For information about ways to resolve parenting disputes, see the brochure “Marriages Families and Separation” available from the Family Court of Western Australia, or ring the Family Relationship Advice Line on **1800 050 321**.

What is arbitration?

Arbitration is a process where the parties choose a private Arbitrator to decide how their property is to be divided, or whether spousal or de facto partner maintenance is payable. The parties may choose the process involved. They have control over the process and the choice of Arbitrator.

An Arbitrator must apply the principles set out in the *Family Law Act 1975*, or the *Family Court Act 1997*, exactly as the Court would.

Arbitration is only conducted with the agreement of both parties. It cannot be forced upon people.

What are the benefits of arbitration?

Resolving financial disputes by arbitration offers a number of significant advantages over taking the matter to court:

- You can greatly reduce the financial, emotional and legal costs of litigation.
- You make your own decisions about who decides your dispute, and how they make that decision.
- You set your own timeframe in which to settle your dispute.
- Your dispute is generally resolved faster.
- You are then able to move forward and make a new life for yourself.
- Your private details are not aired in a public forum.

It is for these reasons that the Family Court encourages people to consider arbitration as a means of resolving financial disputes.

Arbitration in parenting cases

Arbitration is not considered an acceptable form of compulsory dispute resolution for parenting cases. People wishing to file an application for parenting orders with the Family Court will need to obtain a certificate from a Family Dispute Resolution Practitioner before they can apply to the court for parenting orders.

Is the decision final?

A number of people are approved Arbitrators under the *Family Law Act 1975* and the *Family Court Act 1997*. An Award (decision) by an approved Arbitrator is binding upon each of the parties, subject only to an appeal on a question of law. An Award by an Arbitrator who is not approved is not binding on the parties.

If you undergo arbitration in a financial matter, you may also be able to make an application to the Court to have your Award made into a legally binding Consent Order.

Confidentiality

Discussions during arbitration are generally considered to be confidential. You should always discuss the issue of confidentiality with your Arbitrator before you sign any agreement to arbitrate as in some circumstances Arbitrators are compelled by law to report matters to the relevant authorities.

Getting started

If you have a solicitor, you should discuss arbitration and whether it is suitable for you.

If you do not have a solicitor you should contact the Family Relationship Advice Line or visit your local Family Relationship Centre.

Visit the Family Law Section Website, <http://www.familylawsection.org.au/> for a list of Arbitrators in your area.

Need more information?

For more information about Family Dispute Resolution, or to find your nearest Family Relationship Centre:

- go to www.familyrelationships.gov.au ; or
- call the Family Relationship Advice Line on 1800 050 321, the line is open from 8:00am to 8:00pm Monday to Friday, and 10:00am to 4:00pm on Saturdays.

For more information about the Family Court of Western Australia, including access to the legislation, forms or publications listed in this brochure:

- go to www.familycourt.wa.gov.au
- call 08 9224 8222 or 1800 199 228; or
- visit the Family Court of Western Australia registry.

Who else can help?

- **Legal Aid WA**
www.legalaid.wa.gov.au
1300 650 579
- **Community Legal Centres Association of WA**
www.communitylaw.net
08 9221 9322
- **Law Society of Western Australia**
www.lawsocietywa.asn.au
08 9322 7877
- **Aboriginal Legal Service of Western Australia Family Law Unit**
www.als.org.au
08 9265 6666 or 1800 019 900
- **Law Council of Australia – Family Law Section**
www.familylawsection.org.au
02 6246 3788

This brochure provides general information only and is not provided as legal advice. If you have a legal issue, you should contact a lawyer before making a decision about what to do or applying to the Court. The Family Court cannot provide legal advice.

The Family Court of WA respects your right to privacy and the security of your information.

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