



Family Court of Western Australia

Priority Property Pools under \$500,000 (PPP500)

Guide for lawyers and parties in Priority Property Pools under \$500,000 (PPP500) cases

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1 Introduction and purpose

- 1.1. This guide sets out the arrangements for the case management of family law property cases known as 'Priority Property Pools under \$500,000' (PPP500 cases). It contains procedural information giving effect to the [Practice Direction – Priority Property Pools under \\$500,000 \(No.1 of 2023\)](#).
- 1.2. A PPP500 case is:
- a. An application for financial orders pursuant to section 79 of the *Family Law Act 1975* (Cth) or section 205ZG of the *Family Court Act 1997* (WA), where the following applies:
 - i. the net value of the property of the parties (excluding superannuation interests) is, or is likely to be, \$500,000 or less, and
 - ii. there are no entities (such as a family trust, company, or self-managed superannuation fund) owned or in the effective control of either party that might require valuation or expert investigation, and there are otherwise no elements of complexity involved in the case, and
 - iii. neither party in the proceedings seeks orders:
 - for parenting or any other order pursuant to Part VII of the *Family Law Act* or Part 5 of the *Family Court Act*,
 - pursuant to the *Child Support (Assessment) Act 1989* and/or the *Child Support (Registration and Collection) Act 1988*, or
 - by way of enforcement, or arising from a contravention, of an order or obligation whether a parenting or financial obligation.
- 1.3 Case management of a PPP500 case has two components:
- a. Registrar-led resolution (limb one): where a Registrar can assist separating couples to reach agreement, in the shortest possible time, and
 - b. Magistrate managed PPP500 trials (limb two): where a Magistrate determines the case at a trial.

- 1.4 The PPP500 case program has the following features:
- a. Intensive monitoring of compliance with orders for production of documents and valuations
 - b. Reduced delays in getting financial cases through the alternative dispute resolution process
 - c. Expanded opportunities for parties to discuss and take ownership of their dispute resolution (DR) planning at any early stage
 - d. Opportunities for settlement at an early stage
 - e. Improved dispute resolution outcomes through close involvement in the preparation and case management of the case before DR takes place
 - f. Where possible, the number of court appearances are reduced
 - g. Referral to appropriate services is made proactively.
- 1.5 Nothing in this guide affects the Court's discretion to conduct the list in a manner that it considers appropriate.
- 1.6 Amendments will be made to this guide as required and published on the Court's website.
- 1.7 There are 6 Court steps in a PPP500 case:

Registrar-led phase

- Step 1:** Before the first court date – preliminary orders will be made by a Registrar in chambers
- Step 2:** First court date before a Registrar – the asset pool will be clarified and the case will be referred to a Conciliation Conference, or other suitable dispute resolution process
- Step 3:** Dispute Resolution (usually with a Registrar conducting a Conciliation Conference)
- Step 4:** Procedural Orders (if the case did not settle, the Registrar conducting the Conciliation Conference will make procedural orders to progress the matter to a final hearing/trial)

Magistrate-led phase (only if the case has not already settled)

- Step 5:** Status hearing (Magistrate)
- Step 6:** Final hearing (Magistrate)

2 Dispute Resolution (DR)

- 2.1 At any stage in the case, the thoughtful and creative use of DR techniques (including family dispute resolution in a Family Relationships Centre, Legal Aid conferencing, private mediation and/or arbitration) for both substantive and procedural issues should be recognised by the parties as very important in resolving or streamlining the running of PPP500 cases.
- 2.2 DR options should be considered by the parties not only as a viable and effective means of resolving the entire dispute between them, but also as a way to limit or narrow interim issues.
- 2.3 DR processes will generally involve a Court-ordered Conciliation Conference. Parties may also attend a Legal Aid conference, private mediation or arbitration.
- 2.4 Orders for a DR event (such as a Conciliation Conference) will be made at the Registrar's discretion, taking into account the property and financial resources of the parties.
- 2.5 When attending a DR event, parties and their legal representatives must act in good faith and participate meaningfully in negotiations with a view to narrowing the issues in dispute and reaching a mutually acceptable resolution between them by way of compromise.

3 Commencing proceedings

- 3.1 To give effect to the primary purpose of a quicker, cheaper, less formal process, parties are relieved of the requirement to file an extensive affidavit, and comprehensive Financial Statement with an Initiating Application or Response to Initiating Application, unless directed by the Court to do so.
- 3.2 Proceedings may be commenced by filing:
- a. a *Form 1 Initiating Application*,
 - b. a *Form 13PPP Financial Statement (PPP500)*, and
 - c. a *Form NP3PPP Case Information Affidavit (PPP500)*.
- 3.3 Unless the Court directs otherwise:
- a. a sealed copy of the *Initiating Application* and supporting documents must be served within seven days after filing the application, and
 - b. the *Response to Initiating Application* and supporting documents must be filed and served upon the applicant within 28 days of the date of the respondent being served with the applicant's documents, or by no later than 2 days before the first Court date.

4 PPP500 cases before a Registrar

- 4.1 It is expected that all parties and legal practitioners will comply strictly with the timeframes contained in the guide, noting that costs consequences may follow from any failure to comply.
- 4.2 Registrar-led case management processes are expected to last **no more than 90 days**. If the case management requirements of the case exceed that time, the case may be referred to a Magistrate for case management.

5 After proceedings are filed (before the first court date)

- 5.1 After an *Initiating Application* is filed, but before the first Court date, the Court or a Registrar may make an order in chambers concerning the case management of the case. The following case management directions may be made without further notice to the parties:
- a. The filing and service of a *Financial Statement (PPP500)* and a *Case Information Affidavit (PPP500)* (if not already filed)
 - b. Provision of financial documents by each party to the other party and direction(s) for each party to produce copies of such documents to the Court on the first Court date
 - c. A direction to parties to liaise as to the DR process
 - d. A direction to parties to liaise as to an appropriate expert witness for valuation of any items of property in dispute, and where possible, jointly instruct an expert witness to conduct a valuation
 - e. The filing of an affidavit (or affidavits) in respect of any interim applications.
- 5.2 Even before a chambers order is made, each party must, as far as practicable, provide to the other party a copy of all documents listed in rule 199 of the Family Court Rules 2021 (WA) prior to the first Court date.

6 The first court date

- 6.1 By the time of the first court date, the parties should have complied with the directions made by the Registrar in chambers. This will include the provision of documents, valuation processes and any other requirements of the Family Court Rules.
- 6.2 Lawyers and all parties must be present on the first Court date.
- 6.3 At each court event, a lawyer should be in a position to inform the Registrar of the following, with respect to their own client:
- a. the costs incurred to date,
 - b. estimated costs to the conclusion of a final hearing, and
 - c. the source of funding for representation.

- 6.4 Adjournments, including administrative adjournments, are discouraged and will rarely be granted. It is expected that if service has not occurred before the first court date, an application for substituted service will have been made with supporting evidence beforehand. The Registrar will, if possible, determine this issue on the first court date.
- 6.5 The case will be mentioned as early as possible, and the parties (and their lawyers) will be expected to discuss the extent of compliance (and any reasons for non-compliance) with the chambers order made before the first court date.
- 6.6 If the chambers order is not complied with in full, the case may be stood down so that the parties can:
- a. complete and file documents by leave (if necessary),
 - b. negotiate any urgent applications and formalise interim consent orders, and
 - c. agree on the value of certain items of property. If the value is not agreed, parties can consent to a single expert (but not a panel of experts).
- 6.7 Orders for procedural fairness on a superannuation trustee are likely to be made requiring service of the following on the fund:
- a. a copy of the application or response, if that has not already occurred (see rules 168 and 232 of the Family Court Rules), and
 - b. a higher base amount or percentage for the proposed superannuation split, noting that, provided the agreed base amount is less than that provided to the superannuation trustee, the Court can make the orders without further procedural fairness being provided to the superannuation trustee.
- 6.8 If the case does not settle on the first court date, the parties should be able to make submissions about participating in a DR event suitable to the case, which may be a Conciliation Conference, Legal Aid conference or private mediation (provided it can occur within the next 6 weeks).
- 6.9 The Registrar will most likely adjourn the case to a date for a second Registrar-led court event, being the Conciliation Conference. This event will likely occur within 7 weeks.

7 Interim applications

- 7.1 Parties are expected to make a genuine effort to resolve all urgent or interim applications, including consideration of such orders as may be necessary to resolve issues until the completion of the DR process.
- 7.2 The Registrar will assist the parties to resolve interim issues if possible. The application will be referred to a Magistrate if an interim hearing is necessary.

8 Conciliation Conference (and Procedural Orders if the matter does not settle)

- 8.1 By the time of the Conciliation Conference, it is expected that disclosure and valuations will be complete.
- 8.2 The Registrar will assist the parties, and their lawyers if any, meaningfully negotiate to reach an agreement that is just and equitable in the circumstances.
- 8.3 Where the matter does not settle at the Conciliation Conference, the Registrar will make procedural orders, and refer the proceedings to a Magistrate for a Status Hearing and then a final hearing/trial.
- 8.4 The Registrar will discuss with the parties and their lawyers the merits of their respective cases, reality-testing their positions and the available evidence, if that has not occurred during the Conciliation Conference.
- 8.5 A trial plan will be prepared, with a maximum of 2 days to be allocated to the final hearing/trial.
- 8.6 The orders made by the Registrar are to ensure the matter is ready for trial, and will include a timetable for the parties to file their trial affidavits and financial statements. The orders will include the parties making formal offers of settlement.

9 Final consent orders in chambers

- 9.1 The parties are at liberty to seek final consent orders at any time.
- 9.2 For the Registrar to make final consent orders in chambers (whether before or after the first court date), documents seeking orders can be uploaded via the Portal, provided that they include the following:
- a. a scanned copy of the minute of proposed final consent orders, signed and dated by both parties on each page,
 - b. if a superannuation split is sought, evidence of the value of the fund being split, and the consent of the Trustee (or evidence that the Trustee has been given procedural fairness (see Rule 168)), and
 - c. a letter jointly signed by the lawyers for the parties (or each party, if self-represented), containing sufficient information to ensure the Registrar is able to determine that the proposed orders are just and equitable.
- 9.3 Consent orders will not be made in chambers, or at any court date, unless the respondent has filed a Financial Statement to ensure that the Court can be satisfied that the respondent has properly disclosed their financial circumstances. If agreement is reached on a court date, the case may be stood down to enable the respondent to complete a Financial Statement, if they have not already done so.

10 Enquiries and contact information

- 10.1 Copies of all forms and further information is available on the Court [website](#).

11 eCourts Portal of WA

- 11.1 Filed documents can be viewed by parties or those authorised by a party on the eCourts Portal of WA. Parties may register for the Portal to gain access to documents which have been eLodged, as well as orders of the Court, judgments and information about past or future listing events (see www.familycourt.wa.gov.au).