



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

FAMILY COURT OF WESTERN AUSTRALIA

## Priority Property Pools under \$500,000 cases PREPARING FOR THE FIRST COURT DATE

### introduction

The Court has introduced a new case management pathway called **Priority Property Pools under \$500,000 cases** (PPP500 cases).

Certain cases are selected to undergo this special case management pathway to ensure a simpler, quicker and cheaper finalisation of the matter.

Based on the information contained in your *Form 1 Initiating Application* and accompanying documents, **your case has been provisionally identified as a PPP500 case**. This brochure provides information about:

- Priority Property Pools under \$500,000 and your case
- what to expect on the first Court date and when attending Court
- the process that will apply until any dispute resolution is completed, and
- details about support services available including family violence and legal aid.

It is important that you read this information so you can try and develop a plan or a list of things to be done in order to progress your case. You don't need to read it all at once - you can work through it in sections.

### What is a 'PPP500 Case'?

A case is considered a PPP500 case when:

- a. the **net value** of the property of the parties (excluding superannuation interests) is, or is likely to be, less than \$500,000, and
- b. 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
- c. neither party in the proceedings seeks orders:
  - for parenting or any other order pursuant to Part VII of the *Family Law Act 1975* (Cth) or Part 5 of the *Family Court Act 1997* (WA),
  - 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.

Because your case could be a PPP500 case, a Registrar has made special orders in Chambers (that is, without requiring anyone's attendance. See page 2 of this brochure for information on why this has occurred).

## Why did the Court make this initial order without me?

The order that has been made by a Registrar in Chambers is designed to:

- help each party identify the issues in dispute,
- clear up any issues about disclosure of property or financial resources as early as possible, and
- start a conversation between the parties about:
  - what the appropriate dispute resolution process should be,
  - what expert assistance is required (such as a valuer) to resolve disputes about the value of property (such as a house), and
  - resolving any urgent interim matters by agreement.

This will allow a faster resolution of your matter.

When an order is made each person bound by the order must follow it.

## Who is looking after my PPP500 case?

On the first Court date, your case is listed before a Registrar. A Registrar is an officer of the Court, with specialised qualifications and experience in family law, court procedure, and dispute resolution. A Registrar has delegated powers to make certain orders.

Your case is managed by the Registrar until the conclusion of the dispute resolution process. If the case does not resolve by agreement, the Registrar refers the case to a Magistrate for further consideration. A Registrar cannot hear and determine your case on a final basis.

## Preparing for your first Court date

- If you are the Respondent, you must file and serve a *Form 1A Response* and the supporting documents referred to in the **order**. **These documents must be filed and served within 28 days of you being served with the Applicant's documents, or by no later than 2 days before the first Court date.**
- Each party must comply with the order for the filing of documents and provision of financial information and documents to each other.
- A failure to comply may result in an immediate referral of the case to a Magistrate, and/ or the making of a costs order.

**NOTE:** Tax returns and assessments may be obtained from MyGov or by contacting the Australian Taxation Office (ATO) at [www.ato.gov.au](http://www.ato.gov.au). The ATO will also be able to provide you with an integrated client account statement.

MyGov also contains records of your superannuation. If you know who your superannuation provider is, you should be able to obtain an up-to-date electronic statement directly from them.

- If you can't agree on the value of certain items of property, you can agree on a valuer (or appropriate Court expert) to be appointed to undertake a valuation. You can [find a licensed land valuer](#) to value your house, for example, on a WA Government website.
- You can also agree on exactly what other financial documents need to be provided to ensure that each

party is satisfied that the other has made full and frank disclosure.

- Even if you think that your dispute cannot be settled with the other party, it is important that you have some idea of the steps needed to progress the case.
- You may wish to seek some legal advice. Information on legal advice and assistance services can be found on pages 7 and 8.

## **Duty to make full and frank disclosure**

The duty to make full and frank disclosure is a requirement for you to tell the Court, and the other party, all information about your finances, whether from your marriage, or de-facto relationship, or not, and whether acquired before, during or after your marriage, or de-facto relationship.

It includes all of your financial circumstances post-separation and continues up until the date of hearing. The duty is described in rules 197 and 199 of the Family Court Rules 2021 (WA).

In summary, the duty to make full and frank disclosure includes telling the Court and the other party about:

- any property you own, whether in your name or together with anyone else
- any property that may be coming into your name
- any income you receive
- your financial resources
- any trust or company or partnership that:
  - you are in control of
  - you have been in control of
  - you are entitled to take control of, or have (or have had) indirect control over
  - you have received a benefit from, such as a distribution of income or capital
  - you are entitled to receive a benefit from (even if you have not received one), such as a distribution of income or capital
- any superannuation you have
- any shares you have
- if you are (or have been) a director of a company
- any property you have disposed of (including selling, gifting, transferring or assigning) since separation.

## **Attending Court**

Unless otherwise excused or advised by the Court, you must attend Court in person. In unusual or exceptional circumstances, you can appear by telephone. If you want to attend by phone, you must make an application request to the Court. Unless you are advised by the Court your request has been granted, you should attend in person.

If you have a family member, friend or support person with you, they can accompany you into the courtroom, but they cannot sit with you at the bar table, or speak on your behalf, unless approved by the Registrar.

**NOTE:** Children under the age of 18 cannot enter the courtroom. The Court has child minding facilities.

### **WILL I BE AT COURT FOR LONG?**

Make arrangements to be at Court all afternoon. How long you spend at Court will depend on whether or not agreement is reached in your case, and the number of other cases before the Registrar on that day.

### **What will happen on the first Court date?**

Generally on the first Court date, a case is listed before a Registrar to:

- identify and clarify the issues in dispute, and
- promote a settlement of the dispute.

If the dispute cannot be settled on a final basis by consent, procedural orders and directions about the conduct of the proceedings will be made to reduce the issues to be determined at the hearing.

The Court may order:

- copies of any outstanding financial documents be provided to the other party, and
- appointment of expert(s) to value any items of property where the value is not agreed.

If values of items are agreed, then the Court may record those values.

On the first day you attend Court, the Registrar may:

- approve proposed consent orders, either on an interim (urgent or temporary) basis or on a final basis,
- if there is an urgent issue, refer the case to a Magistrate to conduct a hearing (which is a short hearing only about that issue). A Magistrate might be available on that same day, or it will be heard on another day, or
- make procedural orders (see further information below).

Parties and their legal representatives will be expected to assist the Registrar to identify the issues and consider the most appropriate case management pathway. This means preparation of the case for a private mediation, arbitration, family dispute resolution, conciliation conference or other dispute resolution intervention.

A Registrar will not usually make orders for attendance at a dispute resolution process until valuations and the provision of documents are completed, or orders are made to ensure that occurs before the dispute resolution event.

### **BEFORE THE REGISTRAR'S LIST STARTS**

The Court allocates a number of cases in each list. If you are attending Court in person, you will find the list of cases on each level near the courtrooms. Once you find your case, find the courtroom and wait near the door. A court officer will come outside and call the matters. Tell the court officer the name of your case and whether you are the Applicant or Respondent.

After you have given your appearance to the court officer, they will either ask you to wait outside the courtroom or ask you to sit in the back of the courtroom until your matter is called.

Before entering the courtroom you should:

- turn off all electronic equipment, including mobile phones, and
- remove hats and sunglasses, unless worn for medical or religious reasons.

Do not bring any food or drink into the courtroom.

## **WHEN THE LIST STARTS**

The associate or court officer will announce ‘All rise’ or ‘All stand’ when the Registrar enters or leaves the courtroom. You should stand on each occasion.

The way in which Registrars conduct the list will vary. Some Registrars may call through the list alphabetically or in numerical order. Others may ask for cases to be ‘stood down’ and deal with consent cases or applications for adjournment first. If you are unsure, ask the associate or court officer before the list starts.

If your case is ‘stood down’ it will be put on hold for a short time. The Court will deal with your case later in the afternoon.

This gives you an opportunity to negotiate, define the issues in dispute and possibly reach an agreement with the other party. This is different from an ‘adjournment’. If your case is adjourned, it will be postponed to another day.

The Registrar will give you an opportunity to negotiate any urgent issues, before referring any urgent issues to a Magistrate. If you have not (yet) reached agreement on a valuer or valuers, or particular financial documents to be provided, your case is likely to be stood down to allow negotiations to occur.

## **PROCEDURE IN THE COURTROOM**

When your case is called, go to the bar table and tell the Registrar who you are. Do not walk in front of the bar table or approach the Registrar on the bench. You should address the Registrar as ‘Registrar’.

At the bar table, you should stand when you are speaking to the Registrar or when they are speaking to you.

Do not:

- address comments to other people in the courtroom
- point or use abusive language
- raise your voice or shout
- interrupt when the other party or the Registrar is talking, even if you disagree with what they are saying – you will be given an opportunity to tell your side of the story.

Usually, the Registrar will rely on the evidence that has been filed in your case when deciding how to progress your case or when making orders.

**You are likely to be given an opportunity to agree with the other party on a valuer/valuer(s) of property in dispute. If you have a preferred valuer, you should file affidavit evidence of the qualifications and experience of the valuer, and that valuer’s estimated fees.**

## **What happens next?**

This will depend on the orders made by the Registrar on the first Court date. You need to comply with any orders made by the Registrar.

### **VALUATIONS**

If necessary, the Registrar will make orders about who pays for the valuation(s) and who should file a copy of the valuation.

If there is a dispute about how a valuation will be organised, a Registrar can make orders about who, and how, a valuer is instructed. It may be as simple as writing to the valuer and providing a copy of the Court order.

After a valuation is completed, you can ask the valuer to swear or affirm a short affidavit attaching their valuation. This document can then be filed electronically as an 'affidavit' using the eCourts Portal of WA.

### **DOCUMENTS YOU NEED TO PROVIDE AFTER THE FIRST COURT DATE**

The Registrar may make orders for any further specific documents that you need to provide to the other party (but not file). A list of the documents will be either in the Court order or attached to the Court order.

Producing or providing documents is different from your duty to make full and frank disclosure of all your financial information.

### **THE CONCILIATION CONFERENCE**

The Registrar will have made an order about the parties attending a dispute resolution process. This could be external mediation\*, arbitration\*, or a conciliation conference (conducted by a Registrar at the Court).

(\*by consent)

### **IF THE OTHER PARTY FAILS TO COMPLY WITH AN ORDER**

The Registrar may make an order enabling either party to re-list the case simply by writing to the Court, explaining what the non-compliance is, and asking for the case to be re-listed.

A new Court date will be set, and, if there appears to be non-compliance, the proceedings will be referred to a Magistrate for the making of other orders, including costs orders.

### **WHAT HAPPENS IF WE REACH AN AGREEMENT?**

#### **ORDERS BY CONSENT**

If you and the other party reach an agreement on the day of a Court event, you can present the signed agreement to the Registrar and ask them to make the orders by consent. Consent orders can be interim (temporary or urgent) or final.

## WHAT IF FINAL AGREEMENT IS REACHED DURING THE PROCESS?

If you and the other party agree on a final basis during the court process, you can write to the Court requesting that a Registrar make final consent orders ‘in Chambers’. You and the other party will need to sign detailed ‘Minutes of Proposed Final Consent Orders’ which must be in a form capable of being made an order of the Court.

Once both parties have signed, detailed instructions on how to obtain a final consent order in chambers are contained in the *Guide for lawyers and parties in Priority Property Pool under \$500,000 cases* available on the Court's website.

## Further information

Further information about PPP500 cases can be found on the Court's website:

[www.familycourt.wa.gov.au](http://www.familycourt.wa.gov.au)

## Information about family violence

Family violence means violent, threatening or other behaviour that coerces or controls a family member or causes them to be fearful (section 4AB *Family Law Act 1975* (Cth) and section 9A *Family Court Act 1997* (WA)).

Protecting family members from violence and ensuring the safety of all people engaged in the family law system, including when attending Court, is a high priority for the Court.

For more information about safety at Court go to:

[https://www.familycourt.wa.gov.au/P/personal\\_safety.aspx](https://www.familycourt.wa.gov.au/P/personal_safety.aspx)

## Support services

There are support services available to assist you. Support services includes family violence services, family and advocacy support services, legal advice and legal assistance services.

Information on other support services can be found in the *Marriage, Families and Separation* brochure:

[Marriage, families & separation \(familycourt.wa.gov.au\)](http://www.familycourt.wa.gov.au)

The following are just some of the available services:

### **FAMILY VIOLENCE SERVICES**

National Domestic Violence Hotline	1800 799 7233	<a href="http://www.thehotline.org">www.thehotline.org</a>
1800 RESPECT	1800 737 732	<a href="http://www.1800respect.org.au">www.1800respect.org.au</a>
Mensline	1300 789 978	<a href="http://www.mensline.org.au">www.mensline.org.au</a>
No to Violence – Men’s Referral Service	1300 766 491	<a href="http://www.ntv.org.au">www.ntv.org.au</a>
Lifeline	13 11 14	<a href="http://www.lifeline.org.au">www.lifeline.org.au</a>
Family Violence Law Help		<a href="http://www.familyviolencelaw.gov.au">www.familyviolencelaw.gov.au</a>

**In an emergency call the Police on 000.**

## **FASS**

The Family Advocacy and Support Service (FASS) combines free legal advice and social support services for people affected by domestic and family violence. If you are worried about your safety at Court or about going to Court, please talk to one of the FASS officers at the Family Court before your Court date.

For more information visit the website: [Get help at court | Legal Aid WA](#)

## **LEGAL AID**

For PPP500 cases, Legal Aid WA may be able to provide funding for attendance at dispute resolution and/or representation at Court. Contact Legal Aid WA now and find out if you are eligible for assistance. There are strict limits on eligibility for assistance. Visit their website: [www.legalaid.wa.gov.au](http://www.legalaid.wa.gov.au)

## **OTHER LEGAL ADVICE AND ASSISTANCE SERVICES**

The Legal Aid duty solicitor may be available to provide legal advice. Assistance is not automatic and you must meet certain guidelines to be eligible.

A community legal centre may also be able to provide you with no or low-cost legal advice and assistance. Community Legal Centres Australia can provide you with information about a community legal centre in your area. Visit their website for more information: [www.clcs.org.au](http://www.clcs.org.au)

The Family Court Legal Services Directory contains contact details for a range of organisations which may provide free or low cost legal advice: see [FCWA-Legal-Services-Directory.pdf \(familycourt.wa.gov.au\)](#).

The Family Court website also has other information about how to seek or obtain legal advice and find other legal resources: see [Legal Advice \(familycourt.wa.gov.au\)](#) and [Legal Resources \(familycourt.wa.gov.au\)](#)

This fact sheet provides general information only and is not provided as legal advice.

The Family Court of Western Australia cannot provide legal advice.