



# **FAMILY LAW ARBITRATION**



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# 1 OVERVIEW OF FAMILY LAW ARBITRATION

## Introduction to Arbitration

Family Law Courts of Australia are severely under-resourced and are currently at maximum capacity. If you wish to be heard before the Family Court, it is highly likely that you will experience excessive delays, serious financial strain and significant emotional stress.

Family Law Arbitration is an alternative to the Family Law Courts. It is a non-judicial process in which parties will present their arguments and evidence to an accredited 'Arbitrator', who then makes a binding decision that will resolve the dispute between the parties.

Arbitration differs greatly from mediation, which is another alternative dispute resolution process. In mediation, the 'mediator' assists the parties in reaching their own agreement, but cannot force them to reach a resolution. In contrast, in Arbitration, the Arbitrator makes a decision on the matter to resolve the dispute and that decision is binding on the parties.





## Introduction to Arbitration

**Arbitration is an alternative dispute resolution process that provides the following benefits to the parties involved:**

1. Increased control, flexibility, and convenience
2. Reduction in delays and costs
3. Confidentiality
4. Arbitrator's Decision is Prompt, Accurate, and Binding
5. Valuation of property is current
6. Parties are able to resolve independent issues

# When is Family Law Arbitration Appropriate?

Arbitration can only be employed for family law property and finance disputes, which means that matters such as children and parenting issues cannot be determined or resolved by the arbitration process.

**For example, Family Law Arbitration may be used for:**

- Family law related property and finance disputes
- Superannuation splitting
- Pre, post, and during marriage financial agreements
- Spousal maintenance or de-facto partner maintenance

## Who is an Arbitrator?

An Accredited Family Law Arbitrator is a solicitor who has extensive knowledge of family law and has completed specialist arbitration training conducted by a professional institution. They will act independently and ensure that a fair and appropriate outcome is reached. Arbitrators also enjoy the same protection and immunity that a Judge in the Family Court receives in performing the functions of a Judge.



# The Arbitration Process

1. Parties will retain an Arbitrator and schedule a time and date that is suitable to all parties involved, and the arbitration will be held at any location or method upon agreement by the parties – this includes arbitration by way of telephone or audio visual link. The Arbitrator may request or receive material from the parties prior to the arbitration in order to understand the position of the parties.
2. At the arbitration, parties will present their arguments and evidence to the Arbitrator, either through self-representation or by their legal representative. Generally, the process is conducted in a manner that is much more informal and comfortable in comparison to a Family Court environment, which may provide for opportunities to resolve the matter in a more amicable manner.
3. The decision made by the Arbitrator is known as an “Award”, which can be registered to the Court by either party to the arbitration. The decision will generally be received by the parties no later than twenty-eight days after the arbitration, as opposed to Family Court determinations that can take a lot longer.
4. After twenty-eight days, if the opposing part does not contest the registration of the Award, then it will become binding and enforceable, much like an order that has been made by the Family Court.
5. If the opposing party wishes to contest the Award, they can only do so on the following grounds:
  - (a) Error of Law – the Court will review the determination made by the Arbitrator to determine if there has been any errors in applying the law, and if so, then the Court may either confirm, quash, or vary the Award.
  - (b) Unreasonable or Prejudiced Awards – the Court will rectify an Award that is visibly unreasonable or prejudiced, even if there is no error of law present. Examples of this include lack of procedural fairness at the arbitration or bias by the Arbitrator which has affected the outcome.

## Arbitration Fees

Accredited Family Law Arbitrators generally charge a fee for their service. They are obligated to providing written information regarding the fees to the parties involved with the arbitration hearing. The fee will be paid by either party in full, or either split evenly or proportionally between the parties to the dispute. It is ultimately up to the parties to reach an agreement as to how they wish to make payment regarding the Arbitrator's fees.

There may also be fees associated with the use or hire facilities or equipment that is necessary to conduct a hearing, such as hiring a room at a suitable location for all parties involved.

# 2 JB SOLICITORS ARBITRATION SERVICES – OUR FIXED FEE PRICING



JB Solicitors has a leading team of lawyers who have amassed extensive knowledge and expertise in the area of Family Law.

Our Family Law Division is led by John Bui, a Nationally Accredited Arbitrator who offers professional Arbitration services in all family-related property and finance matters. If you wish to learn more about John, see below.

JB Solicitors is highly experienced in handling all types of family law matters, which is why you can be confident that our professional arbitration service will achieve the fairest outcome for all parties involved.

We aim to provide an unparalleled level arbitration service, ensuring that a high professional standard is achieved so that we can exceed all of your expectations.

## **One day arbitration, including preparation and writing of award:**

\$6,600.00 (\$6,000.00 + \$600.00 GST)

## **Two days arbitration, including preparation and writing of award:**

\$13,200.00 (\$12,000.00 + \$1,200.00 GST)

## **Additional hearing days:**

\$6,600.00 (\$6,600.00 + \$600.00 GST)

This fixed fee includes the professional services of an Accredited Arbitrator.

This fixed fee excludes the costs of any facilities or equipment that is required for the conduct of the arbitration hearing.

Please also be aware that arbitration is a flexible process that can be conducted with varying approaches, therefore a fixed fee may not be appropriate to the circumstances of your matter. In any event, please feel free to contact us to discuss your situation and we will be able to advise you accordingly.

# 3 OUR NATIONALLY ACCREDITED ARBITRATOR



## John Bui

Nationally Accredited Arbitrator, JB Solicitors

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## CURRICULUM VITAE

John Bui is the Principal of JB Solicitors and is accredited through the Australian Institute of Family Law Arbitrators and Mediators as a Nationally Accredited Arbitrator.

He has been recognised by the NSW Law Society Journal and was only one of ten lawyers across Australia to have been nominated for the 2018 Lawyer's Weekly 30 under 30 award for his outstanding work in the area of Family Law.

### Qualifications and Admission

2010 Bachelor of Business (BBus Finance), University of Technology Sydney

2010 Bachelor of Laws (LLB), University of Technology Sydney

2011 Admitted as a Solicitor in Supreme Court of New South Wales

2019 Nationally Accredited as an Arbitrator by the Australian Institute of Family Law Arbitrators and Mediators

### Professional Experience

SEP 2014 – present Principal, JB Solicitors

JAN 2008 – AUG 2014 Associate, Kazi Portolesi Lawyer

### Professional Memberships

- Australian Institute of Company Directors
- Australian Institute of Family Law Arbitrators and Mediators
- Family Law Section of the Law Council of Australia
- Australasian Legal Practice Management Association
- Women Lawyers Association of New South Wales
- Law Society of New South Wales
- Red Cross National Solicitors Network
- RSPCA Solicitors Network

### Professional Recognition

- Finalist in the Lawyer's Weekly 2018 '30 Under 30' Awards for Family Law
- Recognised by the New South Wales Law Society Journal





If you would like to employ our Arbitration service, or simply wish to learn more, please feel free to contact us on

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## CONTACT

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