



Legal Practitioners

Conduct Board

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FACT SHEET 5

GENERAL INFORMATION ABOUT CONCILIATION AT THE BOARD

What is Conciliation?

Conciliation can be a flexible, informal, quick and cost effective way to resolve complaints. Conciliation gives both lawyers and clients the opportunity to resolve a dispute facilitated by a qualified and experienced Conciliator. Conciliation offers the opportunity, for both the complainant and the lawyer, to discuss the issues raised and explore options for potential resolution.

Conciliation is a flexible process and can be conducted by an exchange of letters, by shuttle negotiation between each party, by telephone conference, or by face to face conciliation (referred to as a “*Conciliation Conference*”).

How can Conciliation be arranged?

A lawyer or a complainant may ask the Board to arrange conciliation if the complaint relates to:-

- the relationship between the lawyer and the client,
- costs,
- the transfer of a file,
- the service provided by the lawyer or the firm,
- other grievances related to service delivery or communication and where both parties agree to participate in the conciliation process.

The Board will suggest conciliation where:-

- A complaint has been made and the investigator considers conciliation is appropriate.

- There is a grievance which can, in the opinion of the investigator, be best resolved by open discussion.

When can Conciliation occur?

- If appropriate, soon after the complaint is made.
- At any time during the investigation of a complaint.

What will the Conciliator do?

The Conciliator is impartial and will not advocate for either party. The Conciliator will help both you and the other party to talk about the issues that have been raised in the complaint, and ensure that the process of conciliation is as fair as possible for everyone. The Conciliator will not provide either party with legal advice. The Conciliator will help you and the other party explore options for resolution, and assist you find a resolution which is acceptable to both parties.

Where is the Conciliation Conference held?

- Usually at the Board's premises at Level 3, 33 Franklin Street, Adelaide.
- Conciliation Conferences may be held at other convenient, neutral venues if you live in outer metropolitan areas.
- Remember, other forms of conciliation can be engaged in where the parties do not meet face to face.

Who will participate?

- The Conciliator will determine how the conciliation process will proceed and who will be involved. It is important that the parties involved have the *authority* to come to a resolution of the dispute as conciliated agreements are binding on all parties.
- There is no need for legal representation in a Conciliation Conference, however parties may request that a lawyer, advocate, or support person attend to assist them with the conciliation process.

Why should I participate in Conciliation?

- Conciliation gives everybody an opportunity to talk through the problem.
- It is a step all parties can take to improve the situation and explore options for resolution.
- Conciliation allows some personal involvement and satisfaction for both parties from the complaint process.
- Conciliation outcomes will vary depending on the nature of the complaint and the will of the parties to explore a mutually satisfactory outcome.

Limitations of Conciliation

- Conciliation is voluntary and encouraged, however, the Board cannot compel anyone to participate.
- Conciliation is not suitable where:-
 - there is the possibility of criminal charges or disciplinary proceedings being instituted against the lawyer;
 - the safety of any potential party at the conciliation may be at risk;
 - there is an obvious power imbalance between the parties that cannot be addressed within the conciliation process.
- If the Conciliator becomes aware that the conciliation process is becoming compromised or forms the view it is no longer beneficial to the parties, the Conciliator will terminate the conciliation.
- In the event that the lawyer or the complainant believes that the conciliation process is no longer helpful, they can bring this to the attention of the Conciliator and request that the conciliation process be terminated.
- Disputes that are unable to be resolved by conciliation will be progressed to the Board's delegate or the Board for final decision. The Conciliator is not required to report to the Board on the process of the conciliation, but will advise the Board if an agreement was reduced to writing and signed by the parties and confirm the terms of the agreement.

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July 2010



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Information Sheets on other topics are available from the Board.