



# COMPULSORY CONCILIATION



## What is a compulsory conciliation

- A *compulsory conciliation* is one directed and facilitated by us the ADC.
- By law, you and any other party are required to participate and a failure to attend may result in a party being ordered to pay the costs of the party that did attend.
- Conciliations are aimed at encouraging parties to find a resolution to their dispute rather than enter into a long drawn out dispute about the facts and law.
- Conciliations are run by us. A conciliation maybe run face to face, by shuttle (parties separated), over the phone or a combination of any of these. We are flexible on how the conciliation is run and will always try and accommodate any obstacles or concerns you have in attending. So if you are unsure please call us on 08 8999 1444 and we will answer your questions.

## ADC facilitated negotiation

Sometimes parties will not want a face to face conciliation but will want to talk about how to resolve a complaint through us. We can have discussions between you and other parties, via phone, email or in person. These may be discussions about settlement or about terms of a settlement agreement.

If a matter is settled through the ADC a settlement agreement is signed by you and any other parties. This is a legally binding agreement.

## Should I bring a lawyer?

You do not need to bring a lawyer to a conciliation. A conciliation is not about deciding who is telling the truth or whether the law has been broken. It is aimed at resolving disputes.

Anything said in a conciliation cannot later be used at a hearing.

Permission is required from us the ADC for a lawyer, advocate or other support person to attend a conciliation conference. Our role is to ensure that the conciliation will be fair for both parties and that those attending are focused on finding a solution to the dispute.

## Time Frames

We aim to list a compulsory conciliation within 6 weeks of receiving a complaint.

## Tips

### **Complainants**

- Be prepared
- Have a clear idea of the outcome you are seeking
- Know why this outcome will satisfy your concerns
- Ensure the outcome you are seeking is a logical one given the nature of your complaint.

#### **Example:**

Parties are more likely to agree to settlement outcomes that align with the issues that have been complained about. For example a café does not serve you. You request a free meal from the café so they can demonstrate that they are happy to have you as a customer.

- Ensure what you are after is reasonable.

#### **Example:**

Do not ask for \$60,000 if you experienced no actual financial or emotional loss. If you are asking for money what is this money for, be able to explain how you arrived at your figure.

- Be prepared to meet the other party half way
- Come ready to listen to the other side

### **Respondent**

- Listen to what the Complainant has to say
- Remember that complaints can be valuable feedback to improve your organisation or service
- Conciliation is not about proving that you did nothing wrong. It is about finding solutions even when you don't agree with the complainant's account of what happened
- At conciliation you need to bring problem solving skills and an open mind. Do you really need a lawyer or advocate or do you have the skills do this yourself
- Come with authority to settle on the day of the conciliation