



ACCS

Accident Compensation
Conciliation Service


resolving workers compensation disputes

the conciliation process

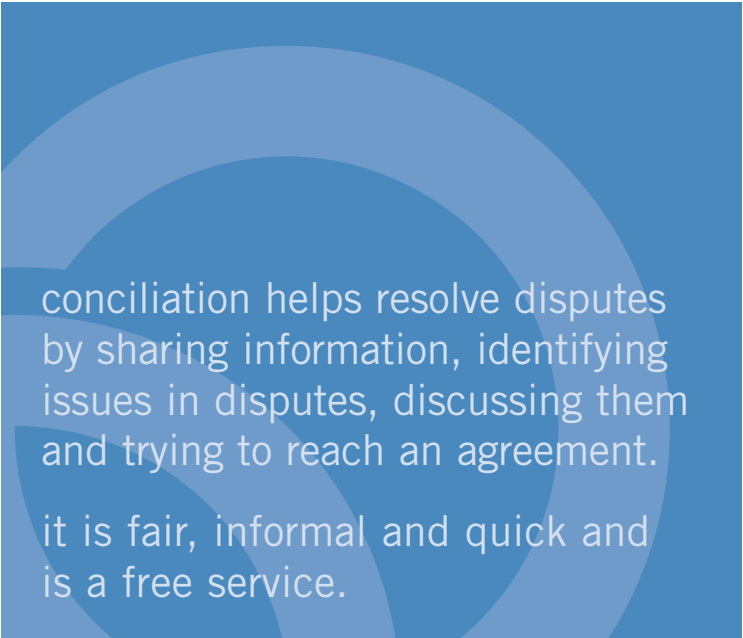
contents

what is the accident compensation conciliation service?	02
how does conciliation work?	04
how do you prepare for a conciliation conference?	06
what happens at a conciliation conference?	08
what are the likely outcomes of conciliation?	10
workers compensation dispute resolution process	12
how do you lodge a request for conciliation?	14
processing the request for conciliation	15
providing information to conciliation	15
cost of conciliation	16
your checklist	17
additional information	18
location of the conciliation service	20

This booklet explains how the Accident Compensation Conciliation Service works, and how to prepare for a conciliation conference.

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what is the accident compensation conciliation service?

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conciliation helps resolve disputes
by sharing information, identifying
issues in disputes, discussing them
and trying to reach an agreement.

it is fair, informal and quick and
is a free service.

The Accident Compensation Conciliation Service helps resolve workers compensation disputes in Victoria between workers and employers or WorkSafe agents using the principles of Alternative Dispute Resolution. Requests for conciliation are usually brought to the Conciliation Service by the worker. In most disputes, conciliation is a compulsory step before taking proceedings in the court system.

The Conciliation Service is an independent organisation.

Conciliation helps resolve disputes by sharing information, identifying issues in dispute, discussing them and trying to reach an agreement. It is fair, informal and quick and is a free service.

Under guidelines of the Minister for WorkCover, conciliation should:

- assist the parties to achieve durable resolutions and agreements wherever possible;
- be even handed and fair, and address matters on their merits;
- maximise flexibility and informality;
- facilitate early return to work opportunities;
- enhance on-going worker/employer employment relationships;
- be prompt and timely in the conduct of conciliation processes and in dealings with the parties;
- reduce cost implications for the parties and the scheme and ensure that matters do not unnecessarily proceed to the Courts.

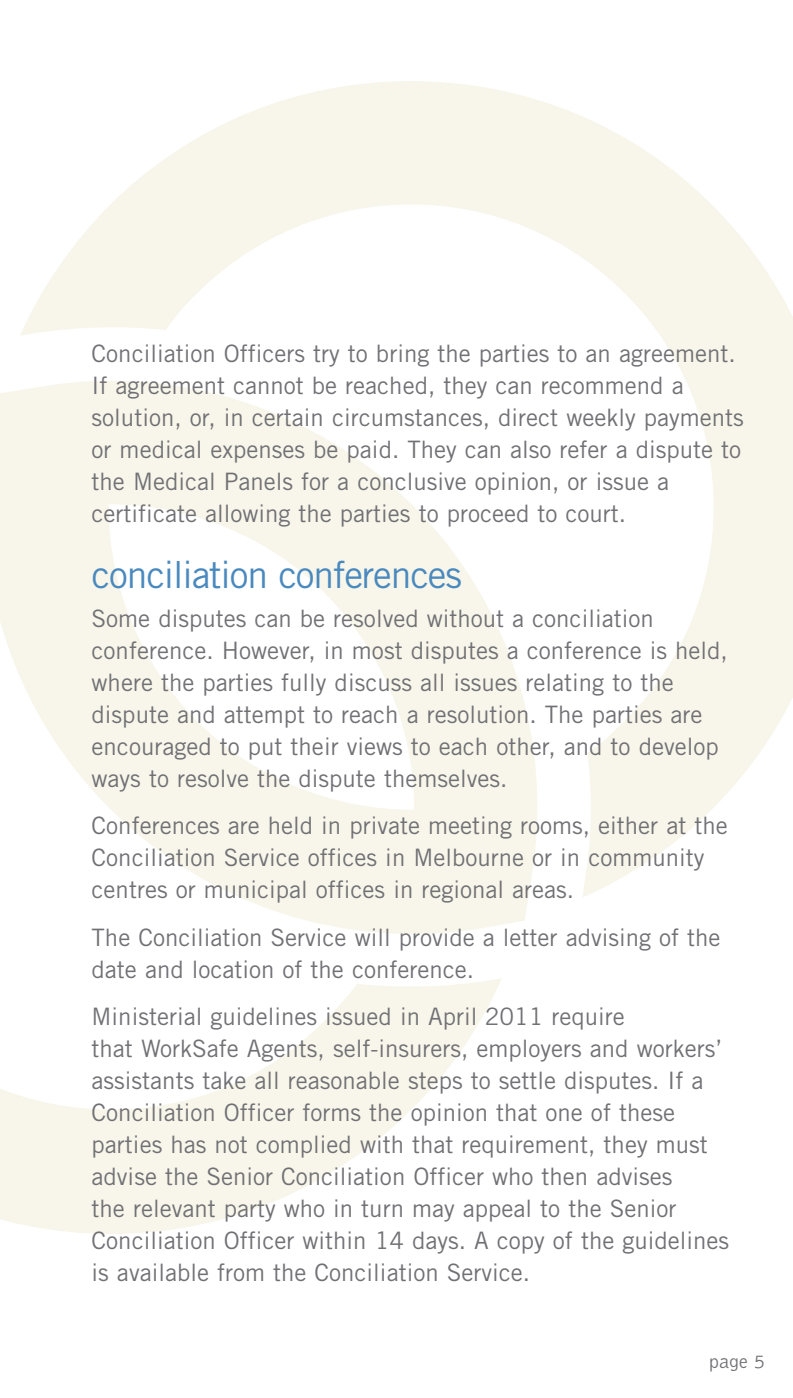
Most Workers' Compensation disputes are resolved through conciliation, rather than court action.

how does conciliation work?

conciliation officers

The process of conciliation is conducted by independent Conciliation Officers, who work under the Minister's Guidelines and a Code of Conduct and Protocols developed by the Conciliation Service. Conciliation Officers:

- understand the Workers' Compensation system and how it relates to the interests of workers, employers, WorkSafe agents and self-insurers.
- ensure that all parties have a fair say at conference, and will encourage them to listen to other points of view and to search for ways to reach agreement.
- help the parties to discuss the issues in dispute by asking questions designed to help exchange information; develop and examine options for resolution; and record the outcome.
- do not judge or decide the merits of a case; they help the parties to find a satisfactory outcome to their dispute.
- have to be satisfied that the person making the claim has taken all reasonable steps to settle the dispute through conciliation before an unresolved dispute can be taken to court.
- are supported in their duties by administrative staff who assist in obtaining relevant reports and information and exchanging them between the parties.



Conciliation Officers try to bring the parties to an agreement. If agreement cannot be reached, they can recommend a solution, or, in certain circumstances, direct weekly payments or medical expenses be paid. They can also refer a dispute to the Medical Panels for a conclusive opinion, or issue a certificate allowing the parties to proceed to court.

conciliation conferences

Some disputes can be resolved without a conciliation conference. However, in most disputes a conference is held, where the parties fully discuss all issues relating to the dispute and attempt to reach a resolution. The parties are encouraged to put their views to each other, and to develop ways to resolve the dispute themselves.

Conferences are held in private meeting rooms, either at the Conciliation Service offices in Melbourne or in community centres or municipal offices in regional areas.

The Conciliation Service will provide a letter advising of the date and location of the conference.

Ministerial guidelines issued in April 2011 require that WorkSafe Agents, self-insurers, employers and workers' assistants take all reasonable steps to settle disputes. If a Conciliation Officer forms the opinion that one of these parties has not complied with that requirement, they must advise the Senior Conciliation Officer who then advises the relevant party who in turn may appeal to the Senior Conciliation Officer within 14 days. A copy of the guidelines is available from the Conciliation Service.


how do you prepare for a conciliation conference?

if you are the worker, you:

- can seek assistance and advice from your union, Union Assist or WorkCover Assist, or your solicitor.
- should provide the Conciliation Officer with any information that supports your point of view, e.g. medical reports, well before the conference if possible. If you don't know what information might be useful, talk to the Conciliation Service.
- should be prepared to speak about why you disagree with the decision about your claim. You may want to make notes to help you remember important points.
- should consider what outcomes you would like from the conference and come prepared to discuss them.
- can ask the Conciliation Service to provide an interpreter if you have difficulty speaking, reading or understanding English.
- will be sent copies of any reports that were used to make the decision. If you do not receive these a week or two before the conference, tell the Conciliation Officer that the reports have not arrived.
- can be accompanied by an assistant, e.g. a union official, a friend or family member.
- may only bring a solicitor if all parties agree. You are responsible for your legal costs for conciliation.
- may ask if you can consult with a solicitor during the conciliation conference.

if you are the employer, you:

- should speak with your WorkSafe agent and discuss the reasons for the decision about the claim. If there are work-related factors, you should speak to members of your staff who have been involved in order to get an understanding of what happened.
- should provide any information that supports your point of view to the Conciliation Officer, well before the conference, if possible. If you don't know what information might be useful, talk to the Conciliation Service.
- should consider what outcomes you would like from the conference and come prepared to discuss them.
- can be accompanied by an assistant, e.g. someone from an employer association to which you belong.
- can ask the Conciliation Service to provide an interpreter if you have difficulty speaking, reading or understanding English.
- should be prepared to discuss a return to work program where it is relevant to the dispute.
- should ensure that any person who attends the conference from your organisation (e.g. a line manager or supervisor) knows about the circumstances of the dispute, and is also authorised to fully discuss the issues in dispute and reach agreement.
- may only bring a solicitor if all parties agree. You are responsible for your legal costs for conciliation.
- may ask if you can consult with a solicitor during the conciliation conference.



what happens
at a conciliation
conference?

when you arrive:

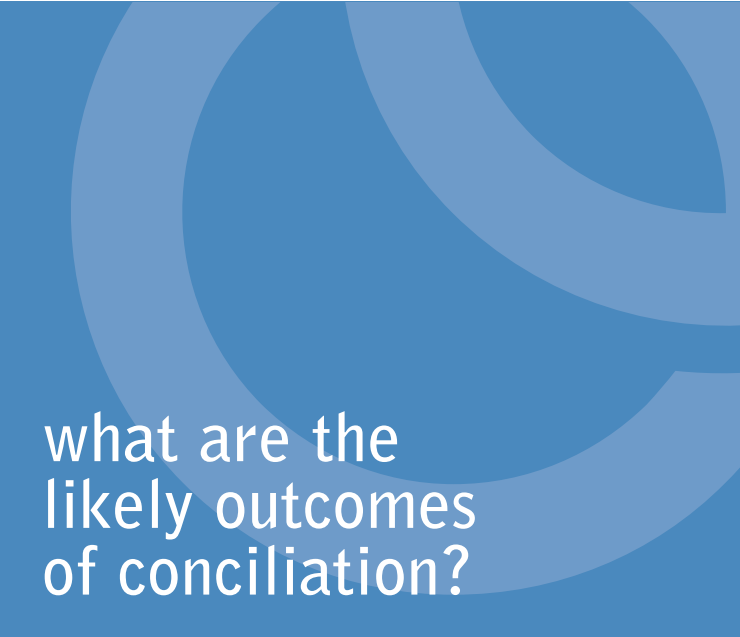
- report to the reception area and give the name of the Conciliation Officer handling your dispute.
- the Conciliation Officer will meet you and introduce you to the other people attending the conference.

at the conference, the conciliation officer will:

- explain how the conference will proceed and set out some ground rules for the meeting to ensure everyone gets a fair chance to have their say.
- manage who is included in the conference room to ensure fair discussion. You will be able to give your views, and the Conciliation Officer may also ask any assistant in the meeting to add their views.
- clarify the relevant issues in dispute.
- remain impartial, but will ask questions, make sure you understand the views of others, make suggestions and help you to reach a fair agreement.
- ensure that relevant and appropriate reports and documentation are tabled and discussed so that everyone understands their contents.
- where appropriate, may talk with people in private meetings so that you all have the chance to talk about anything which you may feel uncomfortable about discussing openly, and to allow you to discuss possible solutions.

at the conference, you take an active part by:

- stating your own views as clearly as possible;
- helping to reach a final agreement;
- requesting information if you are unclear on any issue;
- listening to other points of view; and
- suggesting and considering options for resolving the dispute.

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what are the
likely outcomes
of conciliation?



After discussions, it may be possible for you and the other parties to reach an agreement. The Conciliation Officer will help finalise details of the agreement and, after the conference, send you a certificate showing the agreement.

The certificate will outline the terms on which the dispute is resolved and it will certify that each party is bound by the result. The certificate is evidence of the resolution of the dispute and the terms on which the dispute has been resolved.

Before the certificate is issued, you may ask for time to think about the outcome or seek advice.

The Conciliation Officer may propose a recommendation for resolving the dispute. You can then consider whether you will accept the recommendation as a way of concluding the dispute.

If it becomes clear at the conference that further information is needed, the Conciliation Officer may adjourn the matter to obtain the information, or may refer a medical question to the Medical Panels for a conclusive opinion.

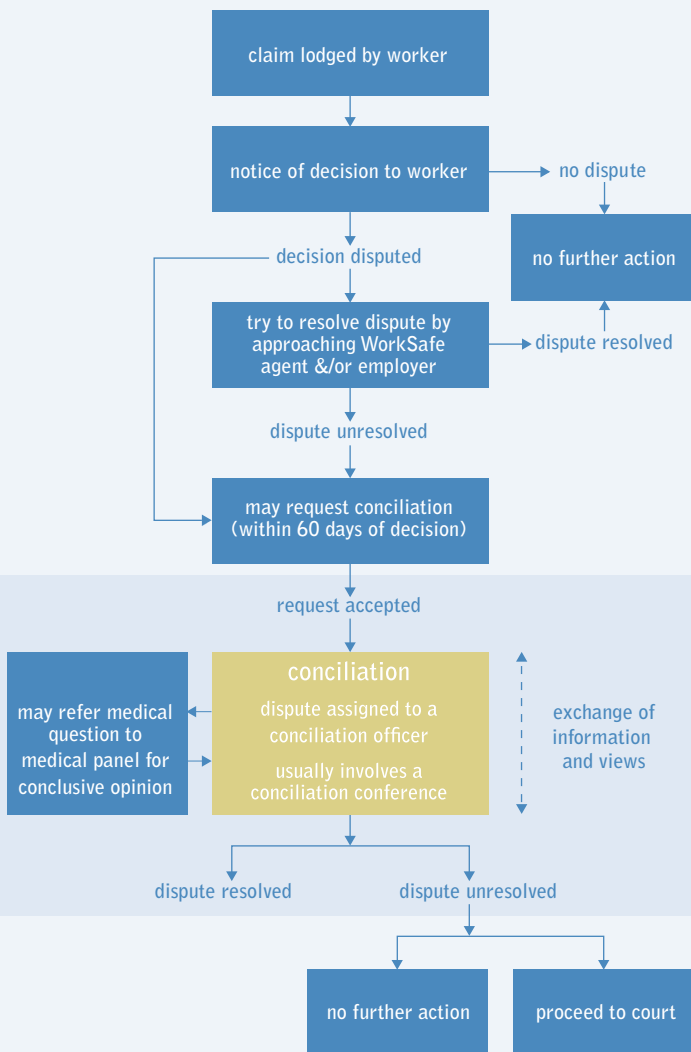
In some disputes, the parties involved do not reach an agreement even if a recommendation has been made. In these circumstances:

- if the Conciliation Officer is satisfied that there is no arguable case for denying payment, a direction that weekly payments or medical expenses may be given.
- if there is an arguable case, a certificate is issued allowing the person making the claim to take action in the court system to determine the matter.
- court action can only be taken if the Conciliation Officer also certifies that all reasonable steps have been taken by the person making the claim to settle the dispute.

Approximately 65% of disputes are resolved as a result of conciliation.



workers compensation dispute resolution process



how do you lodge a request for conciliation?

A request for conciliation form must be lodged within 60 days of a worker receiving a decision about their claim that they wish to dispute.

The Senior Conciliation Officer may allow the application to be lodged more than 60 days after the decision if the particular circumstances are considered appropriate. Reasons for a late lodgement must be provided with the request form.

The request form must be personally signed. It must state clearly the details of the dispute and, if possible, be accompanied by:

- a copy of the letter advising of the decision;
- the “reasons for decision” attached to the letter; and
- anything else which may assist to resolve the dispute, e.g. medical reports, copies of accounts etc.

Personal and health information is collected, used, disclosed and handled by the Conciliation Service in accordance with the provisions of the Information Privacy and Data Protection Act 2014 and the Health Records Act 2001.

The Conciliation Service’s privacy policy can be obtained by contacting the Service.

processing the request for conciliation

The Conciliation Service sends a letter to all parties involved advising that the request for conciliation has been received. Shortly after this letter is sent, the dispute is allocated to a Conciliation Officer, and a conference is arranged.

The Conciliation Service schedules the conference within four to six weeks, but in some cases the Conciliation Officer can resolve the dispute by telephone and the conference does not need to be held. If the Conciliation Service needs to clarify the nature of the request, the conference may be delayed.

providing information to conciliation

You must produce all documents in your possession, custody or power and disclose all information to the Conciliation Officer that:

- relates to the dispute; and
- is reasonably available to you

unless you claim privilege or immunity from producing the document or disclosing the information.

Information provided may be given to other parties to the conciliation.

costs of conciliation

Generally, each party bears their own costs of conciliation. However, the WorkSafe Agent or self-insurer is liable to:

- pay the worker's reasonable transport expenses to and from the conciliation conference;
- reimburse the worker for any loss of income sustained by attending the conciliation conference.

The worker will be provided with a form at the conclusion of the conference to allow him/her to claim these costs.

your checklist

- watch the DVD on conciliation and read this booklet.
- make sure you check the letter from the Conciliation Service for the date, time and venue of your conference.
- contact the Conciliation Service on the telephone number in your letter if you have any questions.
- send all relevant information to the Conciliation Officer named in your letter as early as possible before the conference. If you think you will not have reports or documents available before the conference, please notify the Conciliation Service.
- if your solicitor has reports, make sure they are sent to the Conciliation Service. Bring the information to the conference if you cannot send it beforehand.
- discuss with the Conciliation Officer whether there are any medical or other reports that you should see before the conference date. If you do not understand any of the documents you have been sent, discuss them with the Conciliation Officer.
- if you want someone to assist you at the conference, arrange this before the conference.
- if you need an interpreter, check your conference letter to ensure that one has been arranged by the Conciliation Service. If not, contact the Conciliation Officer.
- plan how you will handle the conference: prepare to put your point of view clearly and concisely; be ready to listen to the views of others; be prepared to contribute to the discussion of issues; and think about a range of options for resolving the dispute.

additional information

If you need further information about the Conciliation Service, you can:

visit

The Accident Compensation Conciliation Service is located at Level 1, 215 Spring Street, Melbourne. Our office is open from 8.30am to 5.00pm.

call

Call the Conciliation Service on 9940 1111 or on our freecall number 1800 635 960.

collect some information

DVD and booklet

A Conciliation Service DVD is sent to everyone attending a conference for the first time. The DVD and this booklet aim to help parties coming to a conference to be prepared and be less anxious about the conference.

Minister's Guidelines

The Minister responsible for WorkCover has released Guidelines for the Conciliation Service to follow in operating the conciliation process.

Code of Conduct and Protocols

This outlines the principles and practice under which the Conciliation Service operates.



request for conciliation form

This form must be completed by the person requesting conciliation. Forms are available from WorkSafe agents, employers that are also self-insurers, union offices, the Accident Compensation Conciliation Service, and WorkSafe Victoria.

complaints procedure

Any complaint you may have about the Conciliation Service or the process of conciliation should be directed to the Senior Conciliation Officer. If you are not satisfied with the response to your complaint, you may contact the Ombudsman (Level 2/570 Bourke Street, Melbourne ph (03) 9613 6222). A document as to the complaints process is available from the Conciliation Service.

LOCATION OF THE CONCILIATION SERVICE

Level 1, 215 Spring Street, Melbourne

Telephone: (03) 9940 1111 Freecall: 1800 635 960



Getting There



Car

Public parking which includes disabled spaces, is available at Secure Parking, 59 Lonsdale Street. Parking fees apply.



There is also some street parking, including two disabled spaces which are located along Spring Street. Parking fees apply.



Train

Short walk from Parliament Station.
Take the Lonsdale Street exit from the subway.



Tram

Tram numbers 86 and 96 runs along Nicholson Street into Spring Street. Please disembark at tram stop 10 - Parliament Station.



Bus

Bus numbers 302, 303, 304, 305, 309, 318, 350, 905, 906, 907 and 908 runs along Lonsdale Street.

إذا لم تفهم هذا المنشور، يرجى الاتصال بالرقم 131 450. وأطلب
من المترجم أن يتصل بالرقم 1800 635 960 أو 9940 1111.

如果您无法读懂此小册子，敬请联络131 450，以便在
传译员的帮助下打电话给1800 635 960或9940 1111。

Ako ne razumijete ovu brošuru, nazovite 131 450 i
zamolite tumača da nazove 1800 635 960 ili 9940 1111.

Αν δεν μπορείτε να καταλάβετε αυτό το φυλλάδιο
παρακαλούμε τηλεφωνείτε στον αριθμό 131 450
και ρωτήστε τον διερμηνέα να καλέσει τον αριθμό
1800 635 960 ή 9940 1111.

Se non riuscite a capire questo opuscolo siete pregati
di chiamare l'131 450 e di chiedere all'interprete di
chiamare l'1800 635 960 o il 9940 1111.

Ако за Вас оваа брошура е неразбирлива,
телефонирајте на 131 450 и побарајте од преведувачот
да телефонира на 1800 635 960 или 9940 1111.

W przypadku problemu ze zrozumieniem tej broszury
należy zadzwonić pod numer 131 450 i poprosić tłumacza o
zadzwonienie pod numer 1800 635 960 albo 9940 1111.

Ако не разумеете ову брошуру, молимо вас да
назовете 131 450 и замолиште тумача да назове
1800 635 960 или 9940 1111.

Si tiene dificultades en entender este folleto, llame al
teléfono 131 450 y solicite al intérprete que se
comunique con el número 1800 635 960 ó 9940 1111.

Bu broşürün içeriğini anlamamanız durumunda, lütfen
131 450 numarayı arayınız ve tercümandan
1800 635 960 ya da 9940 1111 numarayı aramasını
isteyiniz.

Nếu quý vị không hiểu nội dung tờ thông tin này xin gọi số 131 450
và nhờ thông ngôn viên gọi số 1800 635 960 hay số 9940 1111.

If you cannot understand this booklet, please contact 131 450.
Ask the interpreter to contact the Conciliation Service on
1800 635 960 or 9940 1111 to explain the booklet.

Accident Compensation Conciliation Service
Level 1, 215 Spring Street, Melbourne
GPO Box 251, Melbourne 3001
telephone 03 9940 1111 **freecall** 1800 635 960
facsimile 03 9940 1000 **email** info@conciliation.vic.gov.au
website www.conciliation.vic.gov.au

Office hours 8:30am to 5:00pm Monday to Friday