

MINISTERIAL GUIDELINES FOR THE ARRANGEMENT OF THE BUSINESS OF CONCILIATION OFFICERS

Preamble

These Guidelines are issued to the Senior Conciliation Officer pursuant to Part 3, section 52F of the *Accident Compensation Act* 1985 (the Act) and replace the Conciliation Guidelines issued on 9 November 1994.

2. They operate to facilitate conciliation of disputes in connection with claims for compensation, in a manner which meets the Government's commitments to the independent and cost effective resolution of disputes in relation to claims for compensation under the Act.
3. The Guidelines apply from the date of signature and in the arrangement of the business of Conciliation Officers are to operate in conjunction with the legislative requirements.
4. In providing Victorian workers, employers and WorkCover agents or self-insurers with a service to resolve disputes, 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 dealing with the parties;
 - reduce cost implications for the parties and the scheme and ensure that matters do not unnecessarily proceed to the Courts.
5. A Code of Conduct and supporting procedural protocols have been established to ensure best practice in dispute resolution, and that a quality service is provided which is responsive to the needs of workers, employers and WorkCover agents or self-insurers. The protocols identify that in their dealings with the parties, Conciliation Officers have a duty to act impartially and in a manner which is free of any discrimination.

Conduct of Conciliation

Conciliation Conferences

6. A conference involving the parties should be scheduled to occur within 28 to 35 days of lodgement. Within these timelines, disputes concerning terminations and rejections of weekly payments should be given priority.
7. A party to a conference, who is either a worker or employer, may invite a relative, friend or other person to assist them at the conference in the following circumstances:
 - (a) the relative, friend or other person shall be identified as an Assistant;
 - (b) a worker's Assistant may be a union official or representative, an employer's Assistant may be a representative or employee of a peak employer organisation;
 - (c) the Assistant's role is to provide support, encouragement, information or analysis which helps the respective party to participate in the conference and understand the issues and content involved;
 - (d) the attendance of an Assistant does not subsume the prime responsibility of the respective party to a dispute to be a principal participant in the conference.
 - (e) Conciliation Officers shall not permit an Assistant to be an advocate for any party.
8. A Conciliation Officer shall consider the desirability of conducting work site visits or conferences in each case.
9. In developing and conducting conference processes, priority shall be given to the primary role of the worker and employer and the maintenance of good work place relationships. In disputes which include return to work issues there shall be a focus, where appropriate, on:
 - (a) the nature and availability of modified duties which the employer could reasonably make available to help the worker's return to work; and
 - (b) the worker's employment capacities and skills.

Information

10. All available actions shall be taken to ensure that medical and circumstantial information which the parties rely upon, or which the Conciliation Officer considers relevant to the resolution of a dispute, is provided by the parties.
11. At the time of notifying the scheduling of a conference the parties should be advised of their statutory obligations to provide information required by a Conciliation Officer.

12. Where the information requested concerns a medical question relating to the dispute and the relevant report is not provided by a party, the Conciliation Officer shall give consideration to referring the medical question for an opinion by a Medical panel in accordance with Section 56(6).
13. Unless a Conciliation Officer considers it would aggravate a dispute, or involve a breach of confidence, all medical and circumstantial information provided to a Conciliation Officer shall be made available to the parties in order that they may understand each other's position. Where possible this information is to be provided prior to the conference.

Interpreter Service

14. Conciliation shall provide professional interpreter services, free of charge, to meet the needs of the parties.

Certificates

15. In addition to the statutory requirements to issue Certificates in accordance with Sections 49(1)(b) and 104(7) and (8) the content of Conciliation Certificates issued where agreements, recommendations or directions are made should be adequate to inform the parties and the Courts of the process or outcome of Conciliation.
16. Where a Conciliation Officer considers it appropriate to make recommendations to the parties, such recommendations may include the basis upon which the Conciliation Officer considers it would be reasonable for the parties to reach an agreement and resolve the dispute.
17. In giving consideration as to whether to issue a further direction that a worker be paid weekly payments beyond the period of the initial direction a Conciliation Officer should discuss the current circumstances of the dispute with the parties.
18. All parties shall be provided the opportunity to seek advice and confirm the terms of their agreement, and the Conciliation Officer shall certify to this effect.

Administration

19. The Senior Conciliation Officer is responsible for the efficient and effective operation of Conciliation:-

The role of Conciliation encompasses:

- providing information as requested by the Minister, and
- advising the Minister on the functioning of Conciliation and recommending any legislative or other changes which would enhance dispute resolution or operation of the scheme.

20. In meeting Conciliation responsibilities the Senior Conciliation Officer shall maintain:

- information on the cost of conciliating referrals and operation of Conciliation ;
- necessary records to ensure proper and efficient administration;
- statistical information and performance indicator data, including information on activity, timeliness, and customer satisfaction, which reasonably describes the effectiveness of the service delivered.



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