

Attending a conciliation conference

What is conciliation and how can it help me?

Conciliation is one of the methods AFCA can use to resolve complaints, and in our experience, it can be the fastest and most effective way.

We organise a telephone conference call that includes the complainant, the financial firm, and an AFCA conciliator to talk about the complaint in an open and informal way.

We refer to this telephone conference call as a **conciliation conference** throughout this fact sheet.

Most of the conciliation conferences that we do are conducted by phone, although we also do face to face conciliations when appropriate.

Our conciliators are independent and skilled in mediation. Having an experienced person guide the conversation makes it easier for everyone to talk about the complaint.

The aim of a conciliation conference is to try to resolve the complaint by agreement on the day. This doesn't always happen, but we find a conciliation conference can be an effective way for everyone to gain a better understanding of the issues and circumstances.

Most conciliation conferences take between one to two hours, but they may take longer. Participants can ask for a break at any time.



Who decides if a conciliation conference will be held?

When a complaint is assigned to an AFCA caseworker, they will review the facts of the complaint and decide whether a conciliation conference could help.

If the complaint is about superannuation, we may in some cases require the complainant to attend a conciliation conference. We will do this only if we think it is important that they attend, and we will always talk to them about it first.

Alternatively, complainants can ask us to organise a conciliation conference. Financial firms can also request a conciliation conference. We will consider these requests and talk to the complainant or the financial firm about whether this is a useful option.

AFCA conciliation process



* Superannuation complaints can be appealed to the Federal Court on a point of law.

Can you tell me more about the conciliation process?

Before the conciliation conference

- We will contact the complainant and the financial firm to discuss the complaint, confirm the conciliation process and arrange a date and time for the conciliation conference.
- If we can't reach the complainant, we will choose a date and time and confirm it in writing. If they cannot attend on that date and time, they need let us know as soon as possible.

During the conciliation conference

- Early in the conciliation conference we will ask the complainant to summarise their complaint and the financial firm to outline its response.
- The conciliation conference is an opportunity for complainants and financial firms to speak directly to each other, with the conciliator guiding the conversation.

The conciliator's role

The conciliator will sometimes, but not always, be the same person who is managing the complaint at AFCA. During the conciliation conference, they will:

- Welcome and introduce everyone.
- Explain their role how the conciliation conference will proceed.
- Identify the main concerns in the complaint and set an agenda.
- Invite the complainant and the financial firm to talk about their concerns in more detail. The conciliator will help everyone to identify possible options to resolve the complaint, but they will not advocate for either the complainant or the financial firm.
- Speak separately with the complainant and the financial firm to discuss and clarify questions or concerns raised.
- Provide information about alternatives to resolving the complaint if needed (but they cannot provide legal advice).
- Make sure everyone understands what they are agreeing to.
- End the conciliation conference if the process is being misused by anyone.

What is expected of complainants and financial firms?

- Participate in the conciliation conference at the arranged time.
- Approach the conciliation conference in good faith and with an open mind.
- Be prepared to speak openly about the complaint and any concerns.
- Have the authority to resolve the complaint on the day. This might mean getting consent from another person to go ahead with a particular outcome.
- Let us know in advance if exceptional circumstances mean that the conciliation conference cannot go ahead at the organised time, such as a medical emergency.

What happens when an agreement is reached at conciliation?

- We will record the terms of the agreement and provide confirmation in writing afterwards.
- If complainants have any concerns about the terms of agreement, they must contact us within 7 days.
- Sometimes the financial firm will prepare a settlement document for the complainant to sign. This should reflect what was agreed at the conciliation conference. If it doesn't, complainants should let us know.
- Remember, complainants do not have to agree to resolve the complaint in a conciliation conference.

What happens if an agreement is not reached at conciliation?

- If an agreement is not reached in a conciliation conference or after further negotiations, it is likely that we will investigate the complaint further.
- In some cases, we may be able to give the complainant and the financial firms an idea at the conciliation conference about what the outcome of our investigation is likely to be. In other cases, we might need to ask for more information before we can make a decision about the complaint.



What happens to the information disclosed during a conciliation conference?

Conciliation conferences cannot be recorded. However, if the complainant and the financial firm resolve the complaint, we will make a recording of what was agreed.

If the complaint cannot be resolved at the conciliation conference, we may use some of the information disclosed if we go on to consider the complaint further. This can include any new information discussed, and areas of agreement.

Types of outcomes from conciliation

The complainant and the financial firm decide the outcome of a conciliation conference.

Some examples of possible outcomes are:

- An agreement that resolves the complaint entirely or in part.
- An agreement to provide further information.
- An agreement about how the financial service will be provided to the complainant in the future.
- An agreement to end the financial service provided to the complainant.
- An apology to the complainant.
- In financial difficulty cases, a repayment arrangement, or an agreed timeframe for the sale of assets which secure the loan, if the loan can't be repaid any other way.

Do complainants need paid representation?

- Complainants do not need legal representation or any other type of paid support when taking part in an AFCA conciliation conference.
- They can choose to have someone, such as a lawyer, to represent them, but any costs incurred are the complainant's responsibility.
- If the complainant chooses to have a representative, they should still attend the conciliation conference themselves.

Can complainants have another person present?

Complainants may decide to have someone, such as a family member, partner or friend with them during the conciliation conference. If they choose to be supported by someone, they should tell us their name (and phone number, if in a different location) beforehand.



Is there free help available?

Individual complainants might qualify for free legal aid or financial counselling assistance. For more information visit the National Legal Aid nationallegalaid.org or call the National Debt Helpline on 1800 007 007 to speak to a financial counsellor. The National Debt Helpline website (ndh.org.au) also has step-by-step guides on how to tackle financial problems.

Pre-conference checklist

- Check that you are available on the date of the conciliation conference and allow enough time in case the conference goes longer than two hours.
- Think about the key issues in the complaint, what you would like to say and what the potential solution could be.
- Think about whether you would like another person to sit in on the conference for support. Make sure the person is available and let AFCA know.
- Consider the complaint from all angles, including the opposite point of view.
- Prepare a copy of all of the documents and correspondence that might be needed during the conciliation conference.
- Make sure you have the authority to agree to resolve the complaint on the day. This may mean getting consent from someone else to go ahead with a particular outcome.