



FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA

## The Conciliation Conference

Note: Conciliation Conferences attract a fee. For more information visit the fees section at [www.fccoa.gov.au](http://www.fccoa.gov.au)

### What is the purpose of the Conciliation Conference?

A Conciliation Conference (the conference) provides an opportunity for parties to work with a Judicial Registrar to make a genuine effort to settle their dispute. With that in mind, you should take a spirit of compromise into the conference and adopt a practical approach. Reaching an agreement with your former partner will save the need for further court events, including a trial.

Where an order has been made for a Conciliation Conference in the Federal Circuit and Family Court of Australia (the Court), attendance by the parties is compulsory. You and your former partner can be seen separately if you have personal safety concerns. You will be provided with all relevant information if the conference is to take place via Microsoft Teams or some other electronic service.

### What must I do before the Conciliation Conference?

So that you and your former partner make the best possible use of the conference, you must exchange information with each other and provide information to the Court *before* the conference.

You must have filed and serve a *Financial Questionnaire* and *Genuine Steps Certificate* (confirming you have made a genuine attempt to resolve matters prior to coming to the Court) with your *Initiating Application* or *Response to Initiating Application*.

The Court may make specific orders about documents and information to be provided but the following applies to all cases:

1. In a case about financial issues, each party must have exchanged copies of relevant financial documents with the other parties before the first court date. These documents are summarised below:
  - the party's three most recent taxation returns and assessments
  - any superannuation documents for each of the party's superannuation interests, including:
    - the completed *Superannuation Information Form*

- the trust deed and the last three financial statements for a self-managed superannuation fund
- if the party has an Australian Business Number, copies of the last 3 business activity statements lodged;
- for a corporation other than a public company (business), trust or partnership where the party has an interest, the 3 most recent financial statements (including balance sheets, profit and loss accounts, depreciation schedules and taxation returns) and the last 3 business activity statements for each.

**Note:** If these documents were not exchanged prior to the first court date, orders for exchange will be made before the conference can take place.

2. Prior to ordering a conference, the Court will make orders setting out what you must do and what outstanding material must be produced. This will include ensuring all documents and information necessary for meaningful negotiations (eg valuations, disclosure) are available. All parties will also be required to exchange a confidential *Outline of Case (Dispute Resolution)* so that each party is fully aware of the other party/ies' case and the areas of agreement and disagreement.

**Note** – It is important that you make full and frank disclosure of all facts and documents relevant to your application. Failure to do so can delay a settlement, result in increased costs or an order for you to pay the other party's costs. It may also lead to the Court making a greater order for a property settlement in favour of the other party.

You should also read rule 6.06 of the *Federal Circuit and Family Court of Australia (Family Law) Rules 2021* (Family Law Rules) and the Court's brochure *Duty of Disclosure*.

## What can I expect at the conference?

The conference is conducted by a judicial registrar or a deputy registrar (registrar) exercising delegated judicial powers under the Family Law Act.

At the conference, the Registrar will look at the case from both sides and help you explore options for settling your case without any further legal action. A registrar cannot give legal advice, however they will speak with you about the legal principles that are applied when deciding cases and help you understand the benefits of reaching an agreement.

The settlement negotiations during the conference may be privileged. This means that what is said cannot be used in court later. There are some exceptions to this privilege. For example, court staff are required by law to report a suspicion or risk of child abuse and violence or threats of violence to the relevant child welfare authority.

The conference will last between three to four hours. You are required to attend for the entirety of the conference and, at the conclusion the registrar will complete a *Certificate of Dispute Resolution* recording whether an agreement was reached in whole or in part, whether you (and

the other party) attended and whether you (and the other party, used your best endeavours to reach an agreement.

The Conciliation Conference involves three stages:

## **STAGE 1: INTRODUCTION**

Usually you, your former partner and your lawyer (if you have one) will be present at the conference (separate rooms can be arranged where required).

The registrar conducting the conference will meet briefly with each party and:

- explain their role and the purpose of the conference;
- ask about issues of family violence and whether either person is concerned about negotiating directly with the other person;
- confirm, from the material provided in advance of the conference, the areas of agreement and issues for discussion; and
- answer any questions.

The registrar will then tell you how the settlement discussions will proceed. The approach adopted will depend on factors such as the need for separate discussions and the complexity of the financial circumstances of your case. Conferences may be conducted face to face or via Microsoft Teams or other electronic means such as telephone. Where there are concerns about family violence, or where a participant would prefer not to be in the same room as the other party, the conference may be conducted in separate rooms (including virtual rooms).

You may speak privately to your lawyer (if you have one) at any time during the conference.

## **STAGE 2: SETTLEMENT DISCUSSIONS**

A Conciliation Conference is an opportunity to look for areas of agreement. The discussions concentrate on the facts and the opportunities for compromise. These are the areas you should think about when preparing for the conference. The Registrar will assist you to understand and thin about the consequences of any proposals made, guiding you and the other party to see if you can find a solution to your differences. The Registrar cannot give legal advice. It is your responsibility to obtain legal advice before the conference.

During this stage, the Registrar will assist you and your former partner in discussing ways to settle your dispute. This may occur with each of you in separate rooms if appropriate. A lawyer may not necessarily be present with you for the whole of the settlement discussions, but you may speak privately to them during this stage if you wish.

## STAGE 3: CONCLUSION

At the end of the conference, the Registrar will:

- make orders reflecting the agreements reached;
- identify any outstanding issues to be addressed in order to reach agreement;
- confirm the next steps and what needs to be done to prepare for them; and
- prepare and place on the Court file a *Certificate of Dispute Resolution*.

The Registrar will not force you to make a final decision. Agreement is only reached, and orders will only be made, with the consent of all parties. If you cannot reach agreement, your case will move towards a trial.

The settlement negotiations that take place at the conference are privileged. This means that what is said, or proposals made, cannot be used in court later. There are some exceptions to this privilege. For example, court staff are required by law to report a suspicion or risk of child abuse and violence or threats of violence to the relevant child welfare authority.

NOTE – the *Certificate of Dispute Resolution* produced at the conclusion of the conference and any procedural hearing conducted at the conclusion of the conference is not privileged and what is said there, or in that document, can be used in court.

## Family Law Rules

You should consider the following when preparing for the conference:

- Rule 6.06 Duty of disclosure – Financial proceedings
- *Central Practice Direction – Family Law Case Management*
- *Family Law Practice Direction – Financial proceedings*
- *Family Law Practice Direction – Priority Property Pools under \$500,000*

## More information

For more information, including access to any of the legislation, forms or publications listed in this brochure:

- go to [www.fcftoa.gov.au](http://www.fcftoa.gov.au)
- Live Chat on the website
- call 1300 352 000
- visit a family law registry near you.

## Legal advice

You should seek legal advice before deciding what to do. A lawyer can help you understand your legal rights and responsibilities and explain how the law applies to your case. A lawyer can also help you reach an agreement with your former partner without going to court. You can get legal advice from a:

- legal aid office
- community legal centre
- private law firm.

Court staff can help you with questions about court forms and the court process, but cannot give you legal advice.

## Personal safety

If you have any concerns about your safety while attending court, please call 1300 352 000 before your court appointment or hearing. Options for your safety at court will be discussed and arrangements put in place. By law, people must inform a court if there is an existing or pending family violence order involving themselves or their children. More detail is in the brochure *Do you have fears for your safety when attending court?*

This brochure provides general information only and is not provided as legal advice. If you have a legal issue, you should contact a lawyer before making a decision about what to do or applying to the Court. The Federal Circuit and Family Court cannot provide legal advice.

The Court respects your right to privacy and the security of your information. You can read more about the Court's commitments and legal obligations in the fact sheet *The Court and your privacy*. The fact sheet includes details about information protection under the privacy laws and where privacy laws do not apply.

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