

Office of the Commissioner for Body Corporate and Community Management

Practice Direction 10

Preparing for conciliation

This Practice Direction is issued pursuant to *section 233* of the *Body Corporate and Community Management Act 1997*. Its purpose is to provide further information on the procedures and content requirements for dispute resolution applications lodged with the Commissioner's Office. Nothing in this Practice Direction supersedes or overrides the requirements of the legislation. The Commissioner retains the discretion to make decisions about the case management of individual dispute resolution applications as provided under Chapter 6 of the Act.

1. The Commissioner's Office provides a conciliation service through the use of trained conciliators to assist parties to resolve a wide range of issues in a constructive and non-confrontational manner. The following information provides a guide to assist parties in preparing for conciliation.

The role of the conciliator

2. The role of the conciliator is to facilitate discussions and assist parties to resolve issues that they are unable to resolve themselves. Conciliators may also assist parties in discussing how to resolve any future disputes which may arise between them.
3. Conciliators are trained to provide general information on the legislation relevant to the issues in dispute and to discuss possible resolution with the parties. Conciliators may also refer parties to previous decisions of adjudicators, tribunals and courts which have interpreted and applied provisions of the body corporate legislation relevant to the current issues in dispute.
4. Conciliators do not provide legal advice or make a decision about who is right, who is wrong or what the outcome of the dispute should be.
5. Conciliation in the Commissioner's Office is not the same as mediation which is commonly used in commercial arbitration or some other dispute resolution forums (for example, in the Courts).

Preparing for the conciliation session

6. The conciliator will contact each of the parties prior to the conciliation session. The conciliator may seek further information from the parties to assist the conciliator's understanding of the dispute and how each of the parties would like the dispute to be resolved.
7. Parties should advise the conciliator of any special needs prior to the session. This may include interpreting services and physical access requirements to attend the session.



8. Parties can prepare for conciliation by:
 - a. identifying the issues of concern to them that relate to the dispute and being prepared to give a brief description of the situation;
 - b. considering what the issues may be for the other parties to the dispute and how these issues may affect them;
 - c. bringing or making available any relevant documents, plans or photographs that might assist the other party to better understand the opposing point of view;
 - d. contacting the Information Service of the Commissioner's Office (1800 060 119; or www.qld.gov.au/bodycorporatequestion) to get general information on the legislation that may help them understand rights and responsibilities;
 - e. considering what might be their acceptable outcomes to the dispute; and
 - f. being prepared to listen to other points of view.

9. If parties have additional information to add to the dispute, the conciliator will allow this material only if the conciliator believes it is relevant and will assist in resolving the dispute.

The conciliation session

10. The conciliator will decide on the type of conciliation session to be held. Generally, conciliation is jointly conducted with all parties and the conciliator via either a face-to-face or telephone conference. However, in some circumstances, the conciliator may conduct a shuttle conference consisting of a series of one-on-one telephone conversations with each party to the dispute.
11. Conciliation may take up to 3 hours and parties are requested to set aside this time for a possible resolution.
12. Parties are encouraged to represent themselves in the conciliation session and actively contribute towards discussions to resolve the dispute. Parties seeking to be represented at conciliation should read *Practice Direction 11: Representation at conciliation*.
13. The Commissioner's Office notifies parties in writing of the time of a conciliation session. Parties may request a more suitable time but should be aware that a re-scheduled session will depend on the availability of the conciliator and the other parties to the dispute. The legislation requires conciliation to be conducted as quickly as possible.



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COMMISSIONER

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