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# Conciliation Brochure

Workplace Injury Commission (WIC)



Workplace Injury Commission



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## About the Workplace Injury Commission

In Victoria, injured workers can claim compensation and receive support to help them recover and return to the workforce if possible.

If an injured worker wishes to dispute a decision about their compensation, the Workplace Injury Commission is there to help. We are a Victorian Government authority that provides injured workers and their employer with easy access to independent and impartial services to resolve their dispute.

We understand that when a dispute occurs it can be a difficult and stressful time, and reaching a resolution matters to everyone. The Workplace Injury Commission has a skilled and supportive team to help navigate the steps. We are focussed on providing an efficient, fair and affordable service that allows everyone to move forward.

The first step is conciliation, where everyone involved in a dispute takes part in discussions with the aim of reaching an agreement to resolve the dispute. In most cases, this is successful.

If a resolution can't be reached at conciliation, there can be an alternative to taking the matter to court. An injured worker may ask our arbitration service to consider the issues in dispute and make a decision that is binding on everyone involved.

We care about supporting the people involved when there is a dispute about workplace injury compensation because we know resolution matters.



# Conciliation

## How does conciliation work?

### Conciliation Officers

The process of conciliation is conducted by independent Conciliation Officers, who work in accordance with the Victorian workers compensation legislation.

Conciliation Officers:

- Understand the workers compensation system and how it relates to Workers, Employers, WorkSafe Agents and Self-insurers
- Ensure that all parties have a fair say at conference, and encourage them to listen to other points of view and 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 Panel 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 discuss the issues relating to the dispute and attempt to reach a resolution. The parties are encouraged to put their views to each other and develop ways to resolve the dispute themselves.

Conferences are held at the Workplace Injury Commission offices in Melbourne, located at Level 1, 215 Spring Street, or by telephone and online video conference as required.

The Workplace Injury Commission will provide a letter advising of the date, time and details of how the conference will be held.

The *Ministerial Guidelines in Respect of Conciliation (2022)* (the Ministerial Guidelines) require all parties to engage in conciliation meaningfully and genuinely, and that parties take all reasonable steps to resolve disputes.

A copy of the Ministerial Guidelines and the Workplace Injury Commission Codes, Policies and Procedures are available on our website [www.wic.vic.gov.au/resources](http://www.wic.vic.gov.au/resources).

## How do you prepare for a conciliation conference?

**If you are the Worker, you:**

- Can seek assistance and advice from Union Assist, WorkCover Assist or your union, or a lawyer
- Should provide the Conciliation Officer with any information that supports your point of view, for example, medical reports, well before the conference if possible. If you don't know what information might be useful, talk to us
- 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 us to provide an interpreter if you have difficulty speaking, reading or understanding English or need an Auslan interpreter
- 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 to the conciliation conference by an assistant, for example, from Union Assist, WorkCover Assist or from your union
- Can also bring a support person for example, a friend or family member
- May only bring a lawyer to the conciliation conference if the Conciliation Officer agrees. You are responsible for your legal costs for conciliation
- May ask if you can consult with a lawyer 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 us or to your WorkSafe Agent
- Should consider what outcomes you would like from the conference and come prepared to discuss them
- Can be accompanied by an assistant, for example, from an employer association
- Can ask us to provide an interpreter if you have difficulty speaking, reading or understanding English or need an Auslan interpreter
- 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 (for example, a line manager or supervisor) who 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 lawyer to the conciliation conference if the Conciliation Officer agrees. You are responsible for your legal costs for conciliation
- May ask if you can consult with a lawyer during the conciliation conference.

## What happens at conciliation?

For phone conferences the Conciliation Officer will call at the scheduled conference time to join you into the meeting.

For video conferences, join via the link provided to you by the Workplace Injury Commission. You will enter a waiting room; the Conciliation Officer will join you to the conference when they are ready to begin.

For in-person conferences, when you arrive:

- Report to our 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 request to speak 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 can 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
- Suggesting and considering options for resolving the dispute

## 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 the dispute has been resolved by agreement.

Before the certificate is issued, you may ask for time to think about the outcome or to 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 that information, or may refer a medical question to the Medical Panel 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 the dispute does not resolve at conciliation, a certificate will be issued recording this outcome
- If the dispute is eligible for arbitration at the Workplace Injury Commission, the Worker may then choose to refer the dispute to arbitration for a final decision to be made. Alternatively the Worker may choose to go to court for a final decision to be made on the dispute
- Arbitration or 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.

## How do you apply for conciliation?

An *Application for Conciliation Form* must be lodged within 60 days of a Worker receiving a decision about their claim that they wish to dispute.

Even if the 60 days have already passed, we may accept your application for conciliation. You must provide reasons for your late application on the *Application for Conciliation Form*.



The *Application for Conciliation Form* asks you what your dispute relates to, asks you for details about the dispute and includes a checklist of documents you need to provide at the same time as lodging your form.

Depending on what you are disputing, these documents include copies of:

- The letter advising you of the decision made by the WorkSafe Agent or Self-insurer that is being disputed, including the reasons for the decision attached to that letter
- A request for treatment if you believe the WorkSafe Agent or Self-insurer has failed to respond
- A certificate of capacity if you believe the WorkSafe Agent or Self-insurer has failed to pay weekly payments
- Invoices/receipts if you believe the WorkSafe Agent or Self-insurer has failed to pay for medical treatment
- Anything else which may assist resolve the dispute, for example, medical reports or copies of payslips

Personal and health information is collected, used, disclosed and handled by the Workplace Injury Commission in accordance with the provisions of the *Information Privacy and Data Protection Act 2014 (Vic)* and the *Health Records Act 2001(Vic)*.

Our *Privacy Policy* can be found on our website [www.wic.vic.gov.au](http://www.wic.vic.gov.au).

## How is my application processed?

The Workplace Injury Commission sends a letter to all parties involved, advising that the application for conciliation has been received. After this letter is sent, the dispute is allocated to a Conciliation Officer, and a conference is arranged. In some cases the Conciliation Officer

can resolve the dispute by telephone and the conference does not need to be held.

## What information should I provide?

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.

## What are the 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 loss of income sustained by attending the conciliation conference

The Worker will be provided with a form at the conclusion of the conference to claim these costs.

## Your checklist

- ✓ Make sure you check the letter from us for the date, time and whether your conference will be held in person, by telephone or by video
- ✓ Contact us 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 us
- ✓ If your lawyer has reports, make sure they are sent to the Workplace Injury Commission. 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 we have arranged one for you
- ✓ 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.

## Need help?

For more information or assistance, please:

- call **03 9940 1111** or **1800 635 960**
- email **[info@wic.vic.gov.au](mailto:info@wic.vic.gov.au)**
- visit **[wic.vic.gov.au](http://wic.vic.gov.au)**

## Do you need an interpreter?



If you cannot understand this form please contact 131 450. Ask the interpreter to contact the Workplace Injury Commission on 1800 635 960 or 03 9940 1111 to explain this form.

على الرقم 1800635960 WIC إذا لم تستطع فهم هذا النموذج، فيرجى الاتصال بـ 131450 . اطلب من المترجم الاتصال بـ أو 03 99401111 لشرح هذا النموذج.

如果您看不懂这份表格，请拨打 131 450，要求口译员帮忙联系 WIC 来解释此表格，电话 1800 635 960 或 03 9940 1111。

Ako ne razumijete ovaj obrazac, kontaktirajte 131 450. Zamolite tumača da vam nazovu WIC na 1800 635 960 ili 03 9940 1111 kako bi vam se objasnilo za što služi ovaj obrazac.

Αν δεν μπορείτε να καταλάβετε αυτό το έντυπο παρακαλώ επικοινωνήστε με το 131 450. Ζητήστε από τον διερμηνέα να επικοινωνήσει με το WIC στο 1800 635 960 ή 03 9940 1111 για να εξηγήσει αυτό το έντυπο.

Se non riesci a capire questo modulo, contatta il 131 450. Chiedi all'interprete di contattare WIC al 1800 635 960 oppure al 03 9940 1111 per spiegarti questo modulo.

Ако не го разбирате овој формулар, ве молиме јавете се на 131 450. Побарајте од преведувачот да се јави на WIC на 1800 635 960 или на 03 9940 1111 за да ви го објаснат овој формулар.

Jeśli nie rozumiesz tego formularza, zadzwoń pod numer 131 450. Poproś tłumacza o skontaktowanie się z WIC pod numerem 1800 635 960 lub 03 9940 1111 w celu uzyskania wyjaśnienia.

Ако не разумете овај образац, контактирајте 131 450. Замолиите преводиоца да вам назову WIC на 1800 635 960 или (03) 9940 1111 да би вам се објаснило за шта служи овај образац.

Si no puede comprender este formulario, comuníquese con el 131 450. Pida que el intérprete se ponga en contacto con WIC llamando al 1800 635 960 o al 03 9940 1111 para explicar este formulario.