

A woman with long dark hair, wearing a green cardigan over a black patterned top, is sitting at a desk. She is smiling and talking on a white corded telephone. She is holding several sheets of paper in her left hand. The background is a brick wall.

A guide to conciliation conferences



Our free service
can help resolve
your complaint
without the
cost and stress
of going to court.

Who are we?

The Financial Ombudsman Service (FOS) Australia offers fair, independent and accessible dispute resolution for consumers who are unable to resolve complaints with member financial services providers.

Our members include banks, insurers, credit providers, financial advisers and planners, debt collection agencies and other businesses that provide financial products and services.

A not-for-profit, non-government organisation, FOS resolves disputes quickly and efficiently, providing a cheaper alternative than going to court. Our service is free of charge for applicants, with the costs of running the service being met by our members.

How we help

We resolve disputes between consumers and Financial Services Providers:

- › in a cooperative, efficient, timely and fair manner
- › with minimum formality and technicality, and
- › as transparently as possible, taking into account our obligations for confidentiality and privacy.

This involves understanding all aspects of a dispute without taking sides, and making decisions based on the specific facts and circumstances of each dispute.



What is conciliation and how can it help me?

Conciliation is one of the ways FOS tries to resolve the complaint you have with your bank, insurer or other business that provides financial services.

We organise a telephone conference call that includes you, the organisation you have a complaint against, and us, to let you talk about the issues of the complaint.

We refer to this telephone conference call as a 'conciliation conference' throughout this brochure.

Our conciliators are trained mediators. They are independent and help you and the organisation you have a complaint with talk about your concerns, and identify your issues and discuss them. Having a skilled person to guide the conversation makes it easier for everyone to talk about the concerns involved.

The aim of a conciliation conference is for the conversation to result in a solution to the dispute which both you and your financial services provider agree to. This doesn't always happen, but we do find conciliation is a very effective way for both parties to gain a better understanding of the dispute.



Who decides if a conciliation conference will be held?

Talking about a problem is often an effective way to come up with a solution. We will review the facts of the dispute and decide whether conciliation could help.

If we believe a conciliation will help you and your financial services provider come to an agreement, we will contact you both to discuss this. You can ask us to organise a conciliation conference at any time during the process. Your financial services provider can also request a conciliation conference if they think it might help to reach an agreement. We will consider the request and talk to you both about whether this is a useful option for your situation.





Who is the conciliator and what is their role?

The conciliator will often, but not always, be the same person who is handling your dispute. FOS conciliators are trained to help you and your financial services provider to openly discuss your dispute and to reach an agreement. They make sure each party understands what they are agreeing to.

The conciliator:

- conducts the conciliation
- asks questions, offers information and helps to identify a resolution but is not an advocate for either you or your financial services provider
- cannot provide legal advice
- provides information about alternatives to resolving the dispute if the conciliation conference does not resolve all problems
- can end the conciliation at any time if the process is being abused by either party.



“During a conciliation my role is to guide the conversation to try and reach a solution which both you and your financial services provider agree to. I will encourage both of you to talk about your concerns, as well as talk about any ideas you might have to resolve the dispute.”

Elizabeth O'Brien, FOS Case Manager



What happens to information disclosed during a conciliation conference?

Conciliation conferences cannot be recorded by the parties.

During the conciliation process you and your financial services provider give information about the facts of the dispute and narrow the areas where there is disagreement. For example, you may be able to come to an agreement on some issues in dispute, but not all of them.

If the dispute cannot be resolved at conciliation, we may use some of the information disclosed during the conciliation if we go on to consider the dispute further. For example, we may feel that it would be helpful to use information disclosed about calculations, areas of agreement or new facts as we continue to handle the dispute.

If you and your financial services provider resolve the dispute we will make a recording of what you have agreed. We do this in case there are any questions later.



Can you tell me a little more about the process of conciliation?

Before the conference call:

- We will contact you and your financial services provider to discuss the issues of your complaint and confirm the process for the conciliation conference.

During the conference call:

- The conciliation conference is an opportunity for you and your financial services provider to speak directly to each other with us guiding the conversation.

The conciliator organises the conference.

They will:

- Welcome and introduce everyone.
- Explain the role of the conciliator and the guidelines that need to be followed during the conference.
- Help outline the key issues and confirm an agenda.
- Ask you and your financial services provider to talk about your concerns in more detail and identify what you hope for in terms of a resolution.
- Help you both explore the issues and to ask questions of each other to clarify matters.
- Assist in the discussion of possible ways to resolve the dispute.
- Speak separately with you and your financial services provider during the conference to discuss and clarify questions or concerns raised, and explore possible resolution options.

FINANCIAL OMBUDSMAN SERVICE

- › Contacts both parties

CONCILIATOR

- › Explains conciliation conference process
- › Sets date for conciliation conference
- › Confirms issues and details with parties prior to conciliation conference



CONCILIATION CONFERENCE CONDUCTED



AGREEMENT REACHED

- › Placed in writing
- › Recorded on file
- › Dispute resolved
- › File closed

AGREEMENT NOT REACHED

Where appropriate, dispute prepared for further investigation and Recommendation and Determination



RECOMMENDATION OR DETERMINATION MADE

(formal written decision)



DISPUTE CLOSED



What happens when an agreement is reached at conciliation?

- We will record the terms of the agreement.
- We will confirm the terms of the agreement in writing to both parties after the conciliation conference.
- If you have any concerns about the terms of agreement you must contact us within 7 days.
- Sometimes the financial services provider will prepare a settlement document for you to sign. This should reflect what was agreed between the parties. If it doesn't, you will need to let us know.
- If you have any questions about your financial services providers' settlement document, you should discuss them with the conciliator. But, the conciliator cannot provide any legal advice.
- You can talk to your own independent legal advisor about your dispute if you need to.



What happens if an agreement is not reached at conciliation?

- If we aren't able to help you reach an agreement through a conciliation conference or further negotiations, it is likely that we will carry out further detailed investigation to try and resolve your dispute.
- In some cases, we may be able to give you an idea at the conference about what the outcome of our investigation is likely to be. In other cases, we might need to ask you or your financial services provider to give us more information before we can make any decision about the dispute.



Types of outcomes from conciliation

The outcome of a conciliation conference is determined by you and your financial services provider.

Some examples are:

- A full settlement of a claim.
- A settlement that meets some of a claim, when both parties are willing to compromise.
- An agreement that further information is needed.
- An explanation is provided and discussed, and this explanation resolves the issues in dispute.
- The offer of further services at a reduced cost or no cost.

- An agreement to continue or end a professional relationship.
- An apology.
- In financial difficulty cases, a repayment arrangement, or an agreed timeframe for the sale of assets which secure the loan, if the debt can't be repaid any other way.



What is expected of me?

We expect that both parties will:

- Demonstrate a commitment to resolving the dispute.
- Approach the conciliation with an open mind and in good faith.
- Be truthful and be prepared to speak openly about the issues.
- Ensure you are by your phone at the arranged time so the conference can start on time.
- Notify the conciliator in advance if exceptional circumstances, such as a medical emergency, mean that you cannot take part in the conference at the organised time.



How long will it take?

- Most conciliation conferences will take about two hours, but they may take longer.
- Anyone on the call can ask for a break at any time during the conciliation.

Do I need paid representation?

- › You do not need legal representation or any other type of paid support when you take part in a FOS conciliation conference.
- › You can choose to have someone, such as a lawyer, represent you, but any costs are your responsibility.

Can I have another person present?

You may decide to have someone, such as a family member, partner or friend present during the conciliation conference for support. If you choose to be supported by someone, you must provide us with their name ahead of the conciliation conference.

Is there free help available?

Yes, you may be eligible for free legal aid and financial counselling help. For information about free legal assistance in your state visit: www.nationallegalaid.org. You can also contact Financial Counselling Australia on 1800 007 007 between 9.30am–4:30pm Monday to Friday. You can also visit: www.financialcounsellingaustralia.org.au/corporate/find-a-counsellor.

Checklist

Use this checklist to help ensure you are prepared for your conciliation conference.

Place it somewhere you will see it regularly, to ensure you have completed all tasks.

Things I need to do:

- Think about the key issues of my dispute and what I would like to say.
- Consider the dispute from all angles, including from the other party's point of view.
- Think about how I would like my dispute to be resolved. I should keep in mind that a conciliation conference is an opportunity for creative solutions.
- Make sure I have a copy of all of the documents and correspondence I might need to refer to during the conciliation conference and make sure they are organised so I can easily find the information I need.
- Think about whether I would like a family member/my partner/a friend to sit in on the conference for support. Make sure the person is happy to do so and notify FOS of their attendance.
- Make sure I am available on the date of the conciliation conference and that I have allowed adequate time in case the conciliation conference runs longer than two hours.
- Ensure I am in a position to agree to a resolution on the day. This may mean getting consent from another party to go ahead with a particular outcome before attending the conciliation.



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AUSTRALIA

Contact us

We recommend that you visit our website **www.fos.org.au** for comprehensive information about our services. If you want us to help resolve your dispute, you can lodge the dispute online.

To talk to one of our customer service staff call **call 1800 367 287 (1800 FOS AUS)***.

Other helpful contact details are:

info@fos.org.au

GPO Box 3 Melbourne VIC 3001

www.fos.org.au

*9am–5pm Melbourne time. Calls to this number are free of charge to the caller, however some callers from mobile phones will incur charges, depending on the contract/plan they have with their provider.