



## CONCILIATION CONFERENCE IN FAMILY LAW PROPERTY CASES

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

A Conciliation Conference (the conference) provides an opportunity for parties 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.

The Conciliation Conference usually occurs after a Case Assessment Conference if there is disagreement about financial issues, although sometimes parenting issues can be considered as well.

Where an order has been made for a Conciliation Conference in the Family Court, attendance by the parties is compulsory. You and your former partner can be seen separately if you have personal safety concerns.

### 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.

1. In a case about financial issues, each party must have exchanged copies of relevant financial documents with the other parties at least two days before the Case Assessment Conference. If the following documents were not exchanged prior to that Conference, you must ensure they are exchanged before the Conciliation Conference:

- 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
- for a corporation (business), trust or partnership where the party has a duty of disclosure under Rule 13.04, financial statements for each corporation, trust or partnership (including balance sheets, profit and loss accounts, depreciation schedules and taxation returns) for each of the last three financial years
- for the party or a corporation (business), trust or partnership where the party has a duty of disclosure under Rule 13.04, any Business Activity Statements for the 12 months ending immediately before the first court date
- for any corporation, its most recent annual return listing directors and shareholders, and the corporation's constitution
- for any trust, the trust deed
- for any partnership, the partnership agreement, and
- a market appraisal of any item of property in which a party has an interest.



2. The Court will usually give you instructions about what you must do before the Conciliation Conference at the Case Assessment Conference. These instructions include that, within 28 days after the Conference, each party must, as far as practicable, exchange documents relevant to the financial issues as the registrar orders.

The documents required may include any documents which should have been exchanged prior to the Case Assessment Conference but have not yet been exchanged (see above) and any other documents required containing evidence about:

- the financial matters outlined in your and the other party's Financial Statement
- financial contributions made when the parties began living together
- any inheritances, gifts or compensation payments received after the parties began living together
- any purchase or disposal of property in the 12 months prior to and since the separation and any increase or reduction of liabilities since separation, and
- the value of any superannuation interest of a party, including the basis on which the value has been calculated and any documents used to work out that value.

3. You must:

- File and serve a Financial Questionnaire within 21 days after the Case Assessment Conference.
- Prepare with the other party and file a Balance Sheet as follows – in summary: - the applicant must prepare and send to the respondent an initial Balance Sheet within 28 days (it may be sent electronically) - the respondent must prepare and send an amended Balance Sheet within 21 days after receiving the initial draft - the applicant must then complete the Balance Sheet and file it with the Court within a further 14 days.

**Note** – It is important that you make a 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 13.04 of the *Family Law Rules 2004* and the Family Court's brochure *Duty of Disclosure*.

### What can I expect at the Conference?

A Conciliation Conference is conducted by a registrar (Court lawyer).

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 can talk with you about the legal principles that are applied when deciding cases.



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 usually last at least one and a half hours, but may be listed for a longer time in appropriate cases.

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 (unless separate rooms have been arranged). The registrar will explain what will happen and a short discussion will take place about the issues in dispute.

The registrar will then tell you how the settlement discussions will proceed. The process adopted will depend on factors such as the need for separate interviews and the complexity of the financial circumstances of your case.

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

### **STAGE 2: SETTLEMENT DISCUSSIONS**

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**

The registrar will sum up what has happened, highlighting the agreements reached (if you have a lawyer, they will be present). If you have reached agreement on all issues, your lawyer may prepare terms of settlement for you to sign so that the Court can make consent orders.

If you have not reached final agreement, the registrar will conduct a Procedural Hearing and make procedural orders about what will happen next.

#### **Procedural Hearing**

The Procedural Hearing will take place immediately after the Conciliation Conference. At this hearing, the registrar will make procedural orders about what will happen. These may include any of the following matters:

- disclosure of documents
- listing the case for trial including: - payment of the hearing fee - filing of undertakings as to disclosure - allocating a date for a compliance check approximately 21 days before the first day before the judge - allocating the first day of trial before the judge



- clarification of disputed items in the Balance Sheet
- clarification of any issue arising out of a statement made by a party in a *Financial Questionnaire*
- if the case also involves parenting issues: - referring parties to family counselling, family dispute resolution and other family services - appointment of an independent children's lawyer - completion and filing by each party of a *Parenting Questionnaire*

### Family Law Rules

You should consider the following Family Law Rules when preparing for the Conciliation Conference:

- Rule 12.02 Property case – exchange of documents before first court date
- Rule 12.05 Property case – exchange of documents before conciliation conference
- Rule 12.06 Financial questionnaire and balance sheet
- Rule 12.07 Conduct of a conciliation conference

**Source: Family Court of Australia website, [www.familycourt.gov.au](http://www.familycourt.gov.au)**