



What is a Conciliation Conference in family law matters?

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In family law proceedings, the Court encourages parties to resolve the dispute between themselves through various [alternative dispute resolution processes](#). These could include mediation, Family Dispute Resolution (FDR), arbitration (for property matters) and lawyer-assisted negotiations. In this blog, we will explore Conciliation Conferences as a means to negotiating your family law dispute.

A Conciliation Conference is a Court-based mediation where a Registrar of the Court (a Court lawyer who has the power to make certain orders) helps the parties reach an agreement about [parenting](#) and/or [financial matters](#). Generally, it is ordered in financial cases but can also be ordered for parenting cases where appropriate.

Who is eligible for a Conciliation Conference?

From 1 September 2021, the Court will consider the following to determine whether the matter should use the Court's resources for a Conciliation Conference:

- each parties' income;
- each parties' expenses;
- whether they are privately legally represented and how they are meeting their legal fees, or have a grant of legal aid; and
- the issues in dispute.

The Court has limited availability for Conciliation Conferences, so it is intended that the matters that need them, get access.

What if I am not eligible for a Conciliation Conference?

If the Court considers that your case is not eligible for a Conciliation Conference, the Court can order that the parties attend a private mediation. This is usually with a barrister who practices in family law and acts as the mediator.

Each party is generally liable to pay half of the mediator's fees.

The private mediation is held outside of Court, at a venue agreed between the parties.

This is case specific so it is best to [get legal advice](#) about whether you might be eligible for a Court based mediation process or if your case is best served with a private mediation.

What do I have to do to prepare for a Conciliation Conference?

To give you and your former partner the best chance of succeeding in reaching an agreement at a Conciliation Conference, there are certain things that must be done before the day.

- In financial matters, at least two (2) days before the day, make sure all relevant disclosure documents have been exchanged. Disclosure means all financial documents that are relevant to the dispute (like tax returns, bank statements, market appraisals or valuations of any property, business documents and superannuation statements). In parenting matters, this can include any expert reports from Family Consultants/Child Experts.
- Exchanging and agreeing with the other party, what the asset pool is (what items are agreed or not agreed) and what questions need judicial determination (for the Court to decide).
- Exchange what is sometimes called a Case Outline, which sets out the agreement you wish to reach and the legal reasons why you seek that agreement. In [financial matters](#), this includes any contributions you have made or any future needs you or the other party has. In [parenting matters](#), it sets out why your proposal is in the children's best interests.

What happens at the Conciliation Conference?

At the Conciliation Conference, the Registrar will look at the case from both sides and help you with options for settling your matter without the need for further litigation.

The point of a Conciliation Conference is to be able to compromise and adopt a practical approach over the settlement. You have control over the outcome so you have ownership of the deal reached. This is different to a Judge deciding your case for you.

The Conference takes about 1 to 2 hours but can be longer if the Court agrees.

It is important to know that all discussions in the Conciliation Conference have confidential status – they are privileged. This is to allow you and your former partner to make full and frank offers without fear of it being used in Court at a later date if the matter

does not settle at the Conciliation Conference.

At the start, the Registrar will meet with you, your former partner and the lawyers (if you and/or your former partner has one) in a room. The Registrar will explain the process and ask questions about the main issues in dispute.

It can also be arranged that you and your lawyer are in a separate room to that of your former partner so the Registrar will visit each of you separately to give that initial explanation.

The Registrar will then help you and your former partner come up with different settlement options. The Registrar will explain what the law is regarding your case but does not give you legal advice. This is where your lawyers can help you know what the range of likely outcomes is so as to help you reach a decision about settlement. Your lawyer will explain the legal costs of further litigation/Court action and the time it might take to reach a decision through the Courts to help you weigh up the options. You can speak privately with your lawyer at any time.

If both parties are represented, the lawyers will usually talk and come back to you to give you advice and obtain your instructions on what offers you want to make. Effectively the lawyers negotiate on your behalf.

At the end of the Conference, the Registrar will summarise what agreements have been reached.

What happens after a Conciliation Conference?

If you and your former partner have reached a final agreement at your Conciliation Conference about financial and/or parenting issues, your lawyers or the Registrar can help you draft what is called Minutes of Consent Orders which set out the terms of the agreed settlement. Both you and your former partner then sign, and the Registrar can make these into enforceable Court Orders on the spot.

Enforceable Court Orders are simply that; parties must comply with the orders. You can learn more about compliance requirements with Court Orders in our blogs:

• [Compliance with Parenting Orders](#)

• [Compliance with Family Law Financial Orders](#)

If you and your former partner don't reach a final agreement, then the Registrar will conduct what is called a Procedural Hearing. The Registrar can make orders about what needs to happen next to progress your case through the Court system.

These include:

- orders for parties to exchange further disclosure documents;
- orders for parties to file more Court documents;
- referring the matter to Family Dispute Resolution or Counselling where appropriate.

How a family lawyer can help

Smith Family Law can advise you as to potential settlement options available for your specific circumstances, your legal entitlements and advise you and negotiate on your behalf at the Conciliation Conference.

Contacting Smith Family Law

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