

Conciliation

A First Step

What is conciliation?

Conciliation begins after one of the parties starts an action in the Supreme Court (Family Division). Both parties, either in separate meetings or together, meet with an impartial, trained court officer who will help the parties to focus on their situation and consider the appropriate options available to them. This court officer may also be referred to as a “conciliator”. Conciliation is different than mediation. The court officer/conciliator helps you to sort out what to do about your situation and what the next steps might be.

Why conciliation?

The purposes of conciliation are:

- To identify the issues involved;
- To ensure proper disclosure by the parties concerning those issues;
- To reduce conflict and help the parties determine whether a satisfactory and fair resolution can be reached outside of court;
- To consider appropriate options to resolving the issues identified; and
- To recommend other steps, including a hearing before a judge.

The court officer/conciliator does not force the parties to reach a settlement outside of court. A “satisfactory and fair resolution” to the case may involve a hearing or trial before a judge or, in appropriate cases, mediation. In some cases, the parties will have reached an agreement before coming to the Family Division, and may want this agreement to be considered by a judge and made into a court order.

The conciliation process may help the parties reduce the number of issues in dispute when the matter proceeds to court.

Do I still need a lawyer?

It is advisable to see a lawyer if you are involved in a legal dispute. The court officer/conciliator does not give legal advice. The court officer/conciliator can tell you how you can contact a lawyer. The conciliation process will not replace negotiation between lawyers or mediation of disputes before a mediator.

Lawyers can attend conciliation meetings with their clients if they wish.

What will happen at conciliation meetings?

The primary concerns of the court officer/conciliator are to help the parties identify what the issues are and to make sure that all information (especially documents) required by the Family Division have been provided. During conciliation, each party will be required to state what they would be looking for from the judge.

Is conciliation confidential?

Details of discussions during the conciliation process will not be included in the court record. The judge will not know exactly what has been said, although the judge will know what issues the parties have not been able to settle. The court officer/conciliator will prepare a document called the Conciliation Record which explains to the judge what issues have and have not been agreed upon. The Conciliation Record is not a detailed account of discussions, nor a “he-said-she said” statement of what was said to the court officer/conciliator.

Those parties who need and want the opportunity to negotiate privately or who want an “off-the-record” resolution of more difficult issues could consider mediation or a settlement pre-trial meeting with a judge. The court officer/conciliator can refer the parties to either of these options, where appropriate.

Do I have to attend conciliation with my ex-partner?

A conciliation meeting can be held with one or both parties. The court officer/conciliator will schedule a meeting with the parties together if it is appropriate. Joint sessions will not take place in situations where there is a history of family violence or if one of the parties refuses to meet with the other party.

What if my ex-partner will not give the conciliator the information that he or she is asking for or will not attend conciliation meetings?

Conciliation is a part of the court process and is mandatory. The court officer/conciliator and the judge have the authority to order a party to provide certain information. The court officer/conciliator may also order that a party attend conciliation on certain days or times.

What happens if we can reach an agreement on the issues without going to court?

The court officer/conciliator will assist the parties in drafting an order that outlines the agreement. The parties then have 14 days to consult a lawyer about the agreement. If, within that period, one of the parties advises the Family Division in writing that they are not satisfied with the agreement, then the parties will proceed through the court process. However, if parties are satisfied, the order will be forwarded to a judge to sign without the parties appearing in court.

Can a conciliator make final decisions about my case?

No. A court officer/conciliator can help you and your ex-partner reach an agreement, but she or he cannot decide for you. The court officer/conciliator can give certain directions or make certain orders to help the parties resolve their dispute.

These include:

- ordering a party or other family member to provide certain information, such as a Parenting Statement or financial information;
- ordering a party to go to conciliation;
- making an interim or short-term order for child support at the table amount under the Child Support Guidelines;

- referring the parties to mediation;
- referring the parties to the Parent Information Program;
- waiving the requirement for attendance at Parent Information sessions, in exceptional circumstances;
- recommending to a judge that an order be made directing that third parties (such as employers) provide certain information;
- recommending to a judge that a settlement conference be scheduled;
- recommending to a judge that a parenting assessment report be prepared;
- scheduling a trial before a judge;
- preparing a draft consent order, based on the agreement reached between the parties;
- shortening or lengthening the time for service of certain documents and
- issuing execution orders for payment of arrears.