

# Conciliation – Fact Sheet

Conciliation is an important aspect of complaint resolution and the office of the HCSCC has a renewed focus on this important process.

Conciliation:

- utilises an impartial third party to help resolve a complaint;
- assumes useful conversations are possible; and
- aims to resolve complaints in a timely manner in a confidential environment.

Conciliation enables listening, tests assumptions, acknowledges the complex emotions and nature of complaints and creates a safe space for parties to explore the impact of events. It acknowledges different views, even if parties do not agree. Where an opportunity for conciliation exists, it offers the potential for a better outcome for consumers and service providers alike. The following fact sheet is a guide for the conciliation process.

## *Definition*

- Conciliation is a form of alternative dispute resolution (ADR), meaning it's an alternative to court proceedings and is less formal, cost effective and quicker than the courts.
- Conciliation and mediation are often thought to be the same thing but they are different.
- Mediation is a process of resolving issues between parties where a third party is **selected by the parties to assist the parties** with the process of resolving a dispute.
- Conciliation is a method where an expert **is appointed** to assist parties in the settlement of a dispute by managing the process and actively suggesting to the parties ways the dispute might be resolved. The Commissioner appoints conciliators at HCSCC.

## *Features of Conciliation*

- Anything said or done during conciliation other than something that reveals a significant issue of public safety, interest or importance, is unable to be disclosed in any other proceedings, or to any other person.
- The process is voluntary and the parties and the conciliator have the right to withdraw at any time.
- Each party to the conciliation is asked to attend the conciliation with full authority to reach an agreement, including financial settlement authority when relevant.
- Each party is given an opportunity to speak and be heard.
- Any agreement reached between a complainant and a provider in the course of conciliation can be made in a binding form.

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## *What types of issues are suitable for conciliation?*

- If the matters to be conciliated are likely to achieve a timely and positive outcome for the parties; and the issue is not assessed as presenting significant risk to the safety, health or welling of the complainant or a person receiving care.
- Where there has been a communication breakdown between the parties.
- Or where an apology, and explanation are likely to resolve the dispute.

## *What happens prior to a conciliation meeting with the HCSCC*

### The conciliator:

- Gathers all relevant information about each issue from the complainant and the provider.
- Has a discussion with the complainant and the provider prior to the conciliation meeting.
- Considers actions that might put the complainant at ease. Ensures that complainants desired outcomes are feasible and achievable.

## *During a conciliation meeting*

- The meeting may have one or two conciliators in attendance.
- If two attend one is generally responsible for facilitating or conducting the meeting and the other for ensuring that discussion and agreed outcomes are accurately recorded.
- The conciliator maintains an objective role and is impartial.
- Parties are given the opportunity to share their understanding of problems with the communication process facilitated by the conciliator.
- The conciliator ensures all parties have an opportunity to put forward their point of view.
- Discussion is encouraged.
- The conciliator lets the parties negotiate an outcome, but will assist in this process.
- The conciliator does not impose solutions on the parties but can suggest ways to resolve the complaint.
- The conciliator summarises the meeting outcomes and ensures all parties are aware of the agreed outcomes.

## *Post conciliation*

- Post conciliation a report is provided to the Commissioner.
- A binding written agreement can be created within 14 days of the conciliation if requested by the parties.

For more information about the HCSCC, visit our website – [www.hcsc.sa.gov.au](http://www.hcsc.sa.gov.au).