



Conciliation for agencies

This factsheet is for agencies and government funded community services providers who are the subject of a complaint to the NSW Ombudsman. It explains when conciliation may be a suitable option for resolving the complaint.

Conciliation is a voluntary process that can lead to better complaint resolution outcomes for certain kinds of complaints. It can also be a faster and less resource-intensive way to resolve complaints.

The Ombudsman may, at any time, decide to attempt to deal with a complaint by conciliation. The decision to conciliate depends on the nature of the complaint and the parties involved.

What matters are suitable for conciliation?

Conciliation is particularly suitable where there has been a misunderstanding, a communication breakdown or an ongoing relationship that needs to be repaired.

We consider the circumstances of each case, without limiting the factors we consider. However, conciliation is ideal when:

- the parties have an ongoing relationship, the capacity to negotiate and are resolution focused
- without conciliation, the dispute is likely to escalate or continue to absorb significant public resources
- the matter allows for diverse remedies that the parties could agree on (e.g., a better explanation or apology, reconsidering or changing a decision, improving a policy or procedure and/or paying compensation if appropriate)
- the complainant is in a vulnerable situation, and the matter has been going on for a significant period

- a resolution focused discussion by a trained conciliator is more appropriate, and likely to be more efficient, than any other option available to our office
- resolution is more likely if our office creates a neutral, respectful, safe space for the parties to discuss the issues, progress the complaint and forge a working relationship

Conciliation may not be appropriate where:

- the matter warrants formal investigation e.g., due to seriousness of allegations
- we have safety concerns, e.g., if the complainant has a history of inappropriate behaviour
- when the primary issue is a point of law, requiring a ruling or judgement
- we don't have jurisdiction or the issues in dispute aren't for us to weigh in on (e.g., one-off employment related disputes)
- the matter is before court, tribunal, Minister or subject of internal review (conciliation may be suitable later, but not while these more formal processes are on foot)
- if either the complainant or the agency does not participate in good faith with a genuine willingness to reach an agreement

Key features of the process

Confidential – information shared with the conciliator will not be shared with the other party unless expressed consent is sought and provided.

Inadmissible – information shared within the joint conciliation meeting are inadmissible and cannot be used in future legal proceedings or investigations.



If we wanted to investigate, we would only be able to use things said at the conciliation if everyone consented to this.

Voluntary – Conciliation is voluntary, and anyone can withdraw at any time. If the matter does not proceed to conciliation, we will handle the matter another way.

Free and flexible – Meetings are free of charge and can be held in person, online or by telephone.

Frequently asked questions

Can our agency ask the NSW Ombudsman's office to conciliate a matter that we have carriage of?

Our office needs to have received a complaint under the *Ombudsman Act 1974* or the *Community Services (Complaints, Monitoring and Reviews) Act 1993* in the first instance. Therefore, please refer (and if necessary, assist) the complainant to come to our office directly.

Can you conciliate Public Interest Disclosures?

Section 74 of the [Public Interest Disclosures Act 2022](#) (PID Act 2022) allows for agencies to contact us to request conciliation.

Who pays for conciliation?

The Ombudsman is able to charge a fee for conciliation however we are currently offering it for free. We will communicate if this changes.



Scan the QR code to find out more on our website.

Contact us

✉ info@ombo.nsw.gov.au

☎ 1800 451 524

🌐 www.ombo.nsw.gov.au