



**Labour Relations Commission**  
An Coimisiún um Chaidreamh Oibreachais

# Conciliation

## A User's Guide



## What is conciliation?

Conciliation is a voluntary process in which the parties to a dispute agree to avail of a neutral and impartial third party to assist them in resolving their differences.

The Labour Relations Commission provides a conciliation service by making available Industrial Relations Officers of the Commission to chair 'conciliation conferences'. These officers are sometimes referred to as 'IROs' or as 'Conciliation Officers'.

Conciliation conferences are basically an extension of the process of direct negotiations, with an independent chairperson present to steer the discussions and explore possible avenues of settlement in a non-prejudicial fashion.

Participation in the conciliation process is voluntary, and so too are the outcomes. Solutions are reached only by consensus, whether by negotiation and agreements facilitated between the parties themselves, or by the parties agreeing to settlement terms proposed by the Conciliation Officer.

## Access to conciliation

Either or both parties to an industrial dispute may request conciliation, by writing to the Commission or, preferably, by using the Commission's web based facility at [www.lrc.ie](http://www.lrc.ie). In urgent situations, Conciliation Officers may be contacted by phone with a request for conciliation.

Where there is a serious dispute situation, and no request for conciliation has been received, the Commission may sometimes intervene and invite both parties to conciliation.

As a matter of general policy, the Commission does not provide conciliation in unofficial industrial disputes.

## Making a referral

When making a referral to conciliation, it is important to give the following information:

- (a) the names and addresses of all of the parties involved;
- (b) the contact details of the representatives (including phone numbers if possible);
- (c) the issues in dispute; and
- (c) the approximate number and the category of the workers concerned.

Giving the required information in the first instance will speed up the processing of your referral and eliminate the need for

additional correspondence before a date for conciliation can be arranged.

In the event of a joint referral, or where both parties have agreed to use conciliation, it is useful to include a letter signed by both parties to that effect. Where no such letter is provided, the Commission will usually have to write to the other party to the dispute seeking their agreement to attend at conciliation before a date for conciliation can be offered. This correspondence can prolong the process, depending on the speed of response of the parties.

## **Arranging a date for conciliation**

The Commission will endeavour to arrange a conciliation conference at a time and location to suit the convenience of the parties. A team of secretarial staff is engaged on this work. It is helpful to the process of arranging conciliation at an early date if clients endeavour to accept the earliest dates offered by the Commission. It is frequently at this stage that delays outside the control of the Commission can occur.

## **Preparing for conciliation**

It is important to remember that, notwithstanding any assistance provided by the Commission, it is the parties themselves who ultimately determine the outcome of a conciliation conference. It is therefore important that the parties make proper preparations for conciliation and come in a frame of mind conducive to resolving issues in dispute. The following should be borne in mind:

- Proper local discussions should have been attempted and the parties should have a good understanding of the issues being referred to conciliation.
- New or additional items cannot be added to an agenda on the day of a conciliation conference without the agreement of both parties and consultation with the Conciliation Officer.
- Both sides should try to understand the other's position and concerns, and be prepared to be flexible where appropriate. This does not mean conceding to unjustified or invalid positions, which should be recognised as such by both sides.
- Representatives should have an adequate mandate to enable meaningful discussions take place, and normally come prepared to recommend fair and reasonable proposals to their principals.
- Parties should give consideration in advance of a conference to possible solutions to issues, including any

possible avenues that they may wish the conciliator to explore with the other party on a 'without prejudice' basis.

- Relevant information should be researched beforehand and made available at the conference. Consideration should be given to providing the Conciliation Officer and the other party with any complex data or submissions in a suitable written format, for example, a brief submission or charts or graphs.

## What to expect at conciliation

### Opening Joint Session

A conciliation conference normally commences in 'joint session', with the parties on either side of the negotiating table and the Conciliation Officer at the head of the table acting as chairperson. Both parties outline the issues and their respective positions, with a view to giving the Conciliation Officer an initial understanding of the case. (On occasions, where the relationships between the parties may be difficult, the Conciliation Officer may decide to meet them separately in the first instance. This, however, is not the norm).

Parties are expected to 'speak through the chair' and show respect in their use of language, bearing in mind that the objective of the process is to be conciliatory.

### Side session

After the initial 'joint session', which is normally kept fairly brief, the Conciliation Officer will meet the parties separately, in separate rooms, for what is known as a 'side session'.

In side session, the Conciliation Officer will expect both parties to discuss the case openly and frankly with him/her. The Conciliation Officer may also ask questions in order to gain a fuller understanding of the issues and arguments. It is important that the conciliator is given a good understanding of both sides' thinking and concerns, as this will help him or her in trying to steer the parties to solutions that best suit them.

The conciliator may spend long periods in side session with either or both parties. This should not be misinterpreted as the conciliator having more time to listen to one side than the other or somehow favouring one party over the other. The conciliator may sometimes need to spend more time with one party than another in order to obtain the information he/she requires and to explore possible solutions to issues. This may sometimes mean having to spend time challenging seemingly weak or unsupported positions on either side in order to advance the process. An important purpose of the side conference is to enable this to take place in the absence of the other party.

The conciliator will usually go from one party to the other, over and over, in an effort to move the talks in the direction of a settlement. Using the insights and knowledge he/she is given by the parties, and his/her own experience in industrial relations matters, the conciliator will endeavour to move the discussions towards a settlement. This may entail conveying positions and counter positions between the parties until an agreement is reached. Along the way, the conciliator may make informal suggestions to either party in order to help the process along. If necessary, the Conciliation Officer may eventually make settlement proposals of his/her own, provided the parties are willing to accept them or at least to recommend them to their principals for acceptance. (In the event of such proposals being subsequently rejected by either side, they are normally withdrawn and deemed to be without status in the dispute).

At all times during the conciliation process, it is open to either party to take a recess in order to consider matters in private between themselves.

The conciliator is therefore dependent on the co-operation of the parties in trying to find a resolution. He/she is reliant on their willingness to be open and frank in side conference and to negotiate and modify their positions in order to arrive at an agreement. At all times, the conciliator remains impartial and neutral, and has no interest in the outcome of a conference other than to see it settled on whatever terms are most satisfactory to the parties.

### **Concluding joint session**

Where an agreement is reached, or settlement proposals are made by the Conciliation Officer, or even where disagreement remains, the conciliator will usually bring the parties back together to confirm the details of the current position across the table. This serves to avoid confusion or misunderstandings in what are often complex and multi-issue disputes. Where appropriate, documentation confirming the outcome of the conference may be drawn up either there and then or within an agreed timeframe, depending on the requirements of the situation.

## **Adjournments and referrals to the Labour Court**

In the region of 80% of disputes are resolved through conciliation. Sometimes, however, several conferences are required before the process is concluded, depending on the number and complexity of the issues involved. Adjournments may be agreed, either because time has run out on the day, or to enable parties consider positions or do more research, and

come back another day for a further attempt at conciliation. In some cases, the parties may revert to local discussions based on progress made at conciliation.

Where however no agreement is reached, and there is no point in further attempts at conciliation, both parties may agree to refer a dispute to the Labour Court. The Conciliation Officer will make the necessary referral to the Court, following consultation with the Commission and provided the Commission is satisfied that no further efforts on its part will resolve the matter:

## Causes of delays

The Commission endeavours to deal with disputes referred to conciliation as quickly as possible. However, delays can sometimes occur for reasons outside the Commission's control. The main reasons are:

- insufficient details in the initial referral;
- delays by parties in responding to invitations from the Commission to conciliation;
- refusal by parties of earliest dates offered for conciliation, and difficulties in agreeing early dates suitable to both parties;
- no proper local discussions in advance of conciliation, necessitating referrals back to local talks;
- failure to prepare properly for conciliation, or to engage on the issues at conciliation, necessitating adjournments and reconvened conferences.

If you are concerned about an apparent delay in any case you refer to conciliation, please contact the Commission's secretariat for information in the matter. Conciliation officers are also available if required.

## Further information regarding conciliation

Details of all the Labour Relations Commission's services, and the contact telephone numbers of its officers, are available at [www.lrc.ie](http://www.lrc.ie).

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