



## CONCILIATION PROCESS

1. When a complaint is received by the Board, it is forwarded to the Complaints Assessment Committee (CAC) for review.
2. The complaint is assessed by the CAC to determine whether it is appropriate for conciliation. The assessment will consider the following:
  - whether the complaint falls within Section 25 of the Health Services (Conciliation and Review) Act 1995;
  - the subject matter of the complaint;
  - whether the complainant's objectives and "desired outcomes" lend themselves to amicable negotiation;
  - whether both parties are likely to agree to the process.
3. The CAC then makes a recommendation to the Board as to the most appropriate course of action to be taken.
4. If the Board accepts the matter is suitable for conciliation, as recommended by the CAC, the Board will then advise the complainant and the physiotherapist of that decision within seven (7) days. The CAC must commence the conciliation process within fourteen (14) days of the Board's decision.
5. If the complaint is not appropriate for conciliation, it is dealt with through the normal complaints process.
6. If the complaint is appropriate for conciliation, the Registrar contacts the complainant and physiotherapist to determine whether they agree to conciliation.
7. If the complainant and physiotherapist agree to conciliation, the CAC appoints a conciliator from a panel of conciliators established by the CAC.
8. If the complainant or physiotherapist does not agree to conciliation, the CAC refers the matter back to the Board with a recommendation the complaint be dealt with through the normal complaints process.
9. If the Board accepts to deal with the matter through the normal complaints process, as recommended by the CAC, the Board will then advise the complainant and the physiotherapist of that decision within seven (7) days.
10. The conciliator is then appointed to work with the parties to resolve the complaint. The conciliator will organise a meeting with the parties to clarify the issues, agree on the process to be followed, ensure confidentiality agreements are signed, and undertake other planning and administrative arrangements as required. The conciliator may use a number of conciliation processes, including:
  - face to face meetings;
  - written correspondence;
  - telephone conferences;
  - review of health records and reports;
  - provision of an independent expert opinion.

11. Evidence of anything lawfully said or done, or any records prepared and produced for the purpose of conciliation, by a person in the course of the conciliation process, may not be used in any subsequent consideration of the complaint by the Board nor, unless that person waives the right to object, is it admissible in evidence against that person in any subsequent civil proceedings concerning the subject matter of the complaint.

However, this does not apply where disclosure is compelled by law or required to give effect to the outcome of conciliation.

12. Conciliation is terminated when one of the following occurs:
  - agreement is reached;
  - the conciliator determines the matter is not appropriate for conciliation;
  - the conciliator determines that a stalemate has been reached;
  - either party wishes to cease conciliation.
13. The conciliator is to provide a written report to the CAC within fourteen (14) days after the conciliation has been terminated. If conciliation takes longer than one (1) month, the conciliator is required to provide a brief monthly status report.
14. The CAC then makes a recommendation to the Board concerning the outcome of the conciliation process. This recommendation would normally be to either:
  - accept a proposed resolution arising from the conciliation process; or
  - that the process has failed, and the matter be dealt with under the normal complaints process.
15. The Board then considers the recommendation of the CAC and either accepts the recommendation or it may decide to:
  - make a summary order under Division 4;
  - caution or reprimand the physiotherapist;
  - accept an undertaking from the physiotherapist to take or refrain from action;
  - make an allegation to SAT; or
  - take no further action.
16. If the Board accepts the proposed resolution arising through the conciliation process, with the written consent of both parties, it will make an order giving effect to the agreement negotiated.
17. If the Board:
  - accepts the recommendation from the CAC that the conciliation process has failed; or
  - is satisfied the parties are not cooperating with the conciliation process; or
  - is not satisfied with the result of the conciliation process,then the Board must either:
  - make a summary order under Division 4;
  - investigate the complaint; or
  - make an allegation about the complaint to the SAT.