

COMPULSORY CONFERENCES IN DISCIPLINARY MATTERS – AN OVERVIEW

WHAT IS A COMPULSORY CONFERENCE?

1. A compulsory conference is a meeting chaired by a member of the tribunal. The purpose of a compulsory conference is to:
 - a. Identify and clarify the issues in dispute;
 - b. Promote a settlement of the dispute;
 - c. Identify the questions of fact and law to be decided by the tribunal;
 - d. If the dispute cannot be settled, to make orders and give directions about the conduct of the proceedings;
 - e. To make orders and give directions that the member considers appropriate to resolve the dispute.

PREPARING FOR A COMPULSORY CONFERENCE

2. Except in unusual circumstances, the parties themselves must attend the compulsory conference.
3. Think carefully about whether there are other people who should attend the compulsory conference.
4. Conduct a risk analysis of your case before attending the compulsory conference.
5. Even if you think that your dispute is not capable of settling, you should conduct a risk analysis and have some idea of the steps needed to progress the dispute to a hearing.
6. Prepare an opening statement. The purpose of an opening statement is to tell the parties what the real issues are.

AT THE CONFERENCE

7. The member will greet the parties on arrival; provide an overview of the process, the role of the member and what is likely to happen for the balance of the conference.

8. All discussions tabled at a compulsory conference are treated as confidential and “without prejudice”.
9. During the compulsory conference, the member may meet privately with each party to discuss the problem confidentially.
10. Compulsory conferences in disciplinary matters will not result in a resolution of the proceedings. Public interest requires that the proceedings be concluded by a decision of the tribunal. However, parties to a compulsory conference may agree on the facts to be presented to the tribunal, the consequences of the agreed facts and even a range of penalty that may be appropriate. If the compulsory conference results in any agreement between the parties, the member will produce a written record of that agreement to be signed by all parties to the agreement, and the member.
11. If the compulsory conference does not result in an agreement, the member will case manage the dispute by making directions or orders aimed at reducing the issues to be determined at the hearing.

BENEFITS OF A COMPULSORY CONFERENCE

12. Compulsory conferences provide a private forum, in which the parties can gain a better understanding of each other’s positions, and work together to explore options for resolution.
13. The party subject to the disciplinary process may have a better understanding of the process, the reasons why the proceedings are being taken and what opportunities may be available to mitigate the severity of the proposed penalty.
14. The parties have some control over the process, which they do not have if the decision is simply left in the hands of the tribunal..
15. Much of the time, energy and cost in bringing or defending proceedings can be avoided.
16. Compulsory conferences can make the termination of a relationship more amicable.