

Helping resolve disputes – Conciliation

Our role is to help resolve disputes between banks and their customers. Before we investigate a dispute, we first try and resolve the issues informally. One of the ways we can do this is through conciliation.

What is conciliation?

Conciliation is a process where you and your bank try and resolve your dispute with the help of an independent conciliator.

Conciliation allows you to share information, identify the issues in dispute, discuss them and try to reach an agreement.

Why conciliation?

Conciliation helps you and your bank resolve disputes by giving you both the opportunity to speak openly and try to develop solutions that suit everyone.

In our experience, the conciliation process can be more satisfying than going through the formal decision process as everyone has the opportunity to hear directly from each other. This allows you and your bank to fully understand how a complaint came about, the impact the issues at dispute have had, and ultimately to repair the bank-customer relationship.

While conciliation does not always result in a settlement, we typically find that everyone feels they have made progress, often in clarifying the real issues. Nothing is lost by going through the conciliation process as we can always investigate your dispute if you cannot reach agreement.

Conciliation is a free and confidential service.

Who is the conciliator and what do they do?

The conciliator is one of our employees who has been formally trained in conciliation, and is independent. They are not there to make a decision but to help you and your bank reach your own resolution.

The conciliator does, however, know about the Banking Ombudsman Scheme's usual approach to disputes. This means they can advise on what we would consider to be fair and reasonable in the circumstances.

The conciliator:

- asks questions, makes suggestions and helps you find a resolution
- is not an advocate for either you or your banking service provider, and does not decide the merits of the case
- can end the conciliation if either of you are abusing the process
- helps generate options for resolving your dispute



- provides information about other ways to resolve your dispute, if the conciliation does not resolve all concerns
- records the details of any settlement achieved.

How is a conciliation run?

Most conciliations are run by teleconference but some may be conducted in person. Everyone is able to speak directly to the conciliator and the other party.

To begin with, the conciliator will:

- welcome and introduce everyone
- briefly outline their role and the ground rules for the conciliation
- invite you and your bank to give a general overview of the dispute and develop a list of issues for discussion.

The conciliator will then invite you and your bank to talk about the issues in more detail, helping you to ask questions of each other to clarify matters and to understand each other's position.

You are each then given the opportunity to talk privately with the conciliator about your position and any concerns you have. The conciliator will also help you each develop options for resolving the issues.

The conciliator will then bring everyone back together and facilitate a discussion of possible options for resolving your dispute. Finally, agreements will be prepared documenting the agreed settlement terms.

Conciliation is a flexible process. It is run for the benefit of you and your bank and the conciliator will do their best to ensure everyone is happy. If you feel uncomfortable with how the conciliation is progressing or needs to take a break or discuss anything privately with the conciliator or someone else, you can just ask the conciliator.

What is expected of me at a conciliation?

- We expect that both you and your bank will:
- act with good faith and demonstrate a commitment to resolving the dispute
- approach the conciliation with an open mind
- be truthful and prepared to be open in the discussion of the issues and options for resolution
- be at the telephone contact point or meeting place, as arranged, to ensure the conciliation starts on time
- notify the conciliator if you are unable to attend.

How long does a conciliation take?

Most conciliations take around two hours. We ask you to be prepared to give up a part of a morning or afternoon.

The conciliator or either you or your banking service provider may call for a break at any time during the conciliation.

Can I bring someone with me to the conciliation? Do I need legal representation?

You can bring a family member, partner or friend with you for support during the conciliation. This person, with your agreement, may take part in the conciliation to help you discuss your dispute with your bank or to speak on your behalf. However, you must attend the conciliation so that agreements are made with your full knowledge.

You do not need legal representation for the conciliation as the Banking Ombudsman scheme is a free and informal alternative to going to court. If you choose to have a legal representative or other professional with you then you must pay their costs.

If someone is attending the conciliation with you, please tell your conciliator before the conciliation. You will need to tell your conciliator the name of the person, their relationship to you and how they will participate.

How should I prepare for a conciliation?

If you have never been involved in a conciliation before, it can seem a bit daunting. You can be assured, however, that the conciliator is there to help you through the process. To make things easier, you can prepare by:

- thinking about relevant issues you want to discuss – maybe write things down so that you don't forget what you want to say
- thinking about what it might take to resolve your dispute and being prepared to discuss a number of options for resolving it
- making sure you bring any documents or correspondence you want to refer to with you, and have them easily accessible
- making sure you have the authority to agree to a resolution of your dispute
- if there is anyone you think you may need to talk to during the conciliation, for example your partner, or your solicitor or accountant, making sure they will be contactable during the conciliation.

Frequently asked questions

What happens if we reach an agreement during the conciliation?

The conciliator will record the outcome and any details of the agreement. Both you and your bank need to be happy that the agreement has been properly recorded and need to sign the agreement. The conciliator can discuss and clarify any questions or concerns you may have about the agreement. The conciliator cannot, however, provide legal advice about the agreement.

A more formal settlement document will be drafted, usually by the conciliator, after the conciliation and posted to you. Once settlement documents are signed we will consider the matter resolved. This means the Banking Ombudsman Scheme will not investigate the dispute any further.

What happens if we cannot reach an agreement during the conciliation?

No one is required to reach an agreement during the conciliation. If you don't reach an agreement, your file will be transferred to a new investigator, and your dispute will continue through our usual disputes process. Because you get the opportunity to discuss your dispute with your bank, even if you don't reach a resolution or agreement, you and your bank may have a better understanding of each others' positions.

What if I do not agree with what has been said at the conciliation?

You are under no obligation to accept what your bank has said, or to accept any settlement that it proposes. At the end of the conciliation you can just ask that we continue to consider the dispute.

Is the conciliation process confidential?

Anything said during the conciliation is confidential and cannot be disclosed, unless you or your bank agree otherwise, or if the conciliator thinks they have a legal duty to report anything said to the police or another agency.