

Steps in the dispute resolution process for workers compensation matters

This fact sheet will help you understand the steps involved in resolving your workers compensation dispute.

The Personal Injury Commission resolves disputes between people injured in motor accidents and workplaces in NSW, and insurers and employers.

Our aim is to resolve disputes justly and efficiently in the shortest timeframe possible, working collaboratively with all parties to achieve this.

The first step to having your workers compensation dispute resolved by the Commission is to lodge an application using our online portal. Please make sure you include all information relevant to your dispute in an indexed and paginated bundle, as you may not be able to add it later.

Dispute pathways

Your application will be reviewed and registered with the Commission, then assigned to a case owner who will allocate it to the most relevant dispute pathway within the Workers Compensation Division.

If your matter relates to a medical dispute, you will most likely require a medical assessment with one of the Commission's independent medical assessors. They will review all relevant information provided, examine you and make a decision about your dispute.

For most other disputes, including legal disputes, expedited assessments, damages disputes and miscellaneous applications, your matter will be listed with a member or mediator who will review all material lodged.

What is a preliminary conference?

If your matter is listed with a member, you will be invited to take part in a preliminary conference as a first step to trying to resolve your dispute. This is a quick and simple way to bring parties together via video and participants can often join from home or from their lawyer's office.

The member will conduct the conference, using their skills to help all parties identify the issues in dispute and possible ways to resolve it.

If you need to speak with your legal representative privately, you will be placed into a private conference call to allow this to occur.

A high proportion of disputes are successfully resolved at the preliminary conference.

However, if the parties cannot reach an agreement, the matter will progress to the next step, which may include a decision by the member based on the information on hand, or through another dispute resolution event, such as a conciliation conference and arbitration hearing.

What is a conciliation conference and arbitration hearing?

If your dispute is not resolved at the preliminary conference, your matter will be listed for a conciliation conference and arbitration hearing, which may be conducted in person, by video conference or as a hybrid event.

The conciliation conference is conducted by the member who will work with each of the parties and their legal representatives to identify the issues and encourage them to resolve the dispute on terms that are satisfactory to both parties.

If the matter can be resolved by agreement, this is recorded in writing. However, if it is unsuccessful, the matter will progress to an arbitration hearing held on the same day.

The member will help the parties to understand the issues in dispute and ask to hear evidence and the views of each party.

Based on all available evidence, the member will then make a decision about the dispute.

What is an 'on the papers' decision?

Occasionally, a member may make a decision about your dispute based on the documentation provided only, and without meeting with the parties. This is called an 'on-the-papers' decision and the matter will be finalised.

What is a mediation?

The Commission mediates work injury damages disputes. If your matter is listed with a mediator, you will be asked to take part in a mediation conference conducted by video conference, in person or as a hybrid event.

The mediator's role is to work with each of the parties, including their legal representatives, in an attempt to help them reach an agreement. The mediator will speak to all parties together and may also talk separately with each of the parties. This is an important part of trying to resolve any deadlocks in the negotiations.

At the end of the mediation, the mediator will provide a certificate of mediation. If the parties have been unable to reach an agreement, the claimant may use this certificate to commence court proceedings.

Can I use an interpreter?

When requested, the Commission can arrange interpreters at no cost to assist workers and employers in our dispute resolution proceedings and medical assessments.

How long will my dispute take to resolve?

The time taken to resolve a dispute depends on:

- the issues in dispute
- the standard of preparation by the parties
- the willingness of parties to genuinely attempt resolution
- whether a decision is appealed.

The Commission aims to resolve disputes as quickly as possible and will encourage the parties to resolve their dispute at the earliest opportunity.

How do I receive updates as my matter progresses through the Commission?

Your case owner will update your legal representative throughout the dispute resolution process, including any steps you need to take.

Case owners may also engage with you directly if you are self-represented or in relation to some Commission events, such as a medical assessment.

What if I am unhappy with the outcome of my dispute?

If you are unhappy with the outcome of your dispute, there are several appeal and review options available. More information is available on our website.

Publication of Personal Injury Commission decisions

The Commission publishes many of its decisions online, as required by the *Personal Injury Commission Act 2020* to ensure our decisions are transparent and robust.

Decisions that are published online include a decision by a member or decisions of medical review panels and medical appeal panels.

If you have concerns about aspects of your decision being published, you can apply for it to be de-identified or redacted.

Where can I find more information?

You can find information about dispute pathways, dispute resolution events and the publication of decisions on our website, including a range of easy-to-read fact sheets. Visit www.pi.nsw.gov.au

Contact us

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