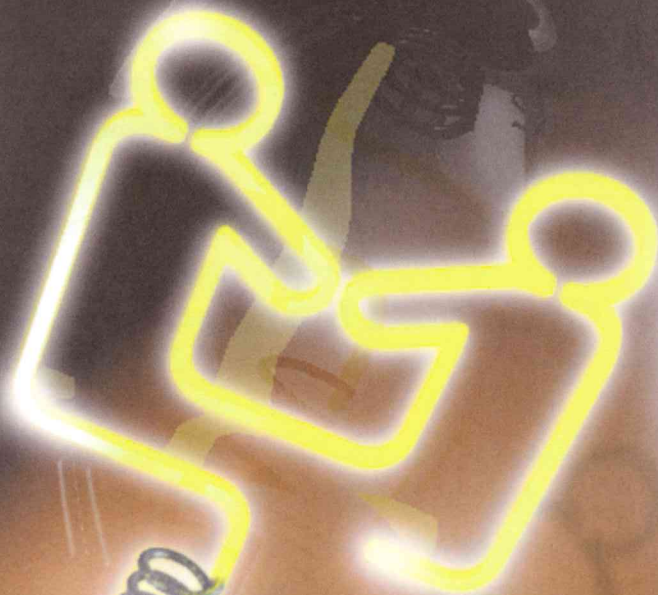


# What is Conciliation ?



平等機會委員會  
EQUAL OPPORTUNITIES COMMISSION



## Introduction

The Equal Opportunities Commission (EOC) is a statutory body established to administer anti-discrimination legislation. Hong Kong's anti-discrimination laws make it possible for those who feel aggrieved, by unlawful discriminatory acts or acts of harassment, to seek the assistance of the EOC. This is done through the complaints process administered by the EOC.

## Complaints System

The complaints system is aimed at resolving disputes between parties through conciliation. When a person lodges a complaint in writing with the EOC, it is required by law to conduct an investigation into the complaint and to try to settle it by conciliation unless it exercises its discretion to discontinue the investigation.

The law spells out the conditions under which investigation of complaints can be discontinued. The power to discontinue an investigation is exercised with great care, balancing the rights of the complainant and the rights of the respondent.

The EOC must maintain an independent and impartial role during both the investigation and conciliation process. The EOC does not act for either party of the complaint. Also, it is not the role of the EOC to adjudicate a particular complaint. That is the function of the court.

## Conciliation

The purpose of conciliation is to bring the different parties together to look for ways to resolve the dispute. Conciliation looks for common ground to help resolve the matter to the satisfaction of both parties so that both can move beyond the dispute. As the conciliation process allows for both parties in the dispute to have their say, it is possible for each side to come to a better understanding of the other's position. This can help to eliminate misunderstandings based on incorrect assumptions or information and to achieve a real change in attitude. All information gathered in the conciliation process is kept confidential and is not made available to court proceedings.

Conciliation is completely voluntary. Should the parties reach a settlement, the agreement signed by the parties is a contract and is legally binding. Conciliation settlement can be in the form of apology, changes of policies and practices, review of work procedures, re-instatement, monetary settlement, etc.

## Legal Assistance

If conciliation is not successful, complainants can apply to the EOC for legal assistance. All applications for assistance are considered by the Legal and Complaints Committee of the EOC.



## What is conciliation



### What is conciliation?



Conciliation helps different parties to negotiate a settlement by:

- identifying issues and understanding the facts and circumstances
- discussing problems
- understanding needs of the parties
- reaching a mutually acceptable agreement



### What are the advantages of conciliation?



- Conciliation is free
- It is less time consuming than going to court
- There is no media exposure to the individual parties
- It is less formal as compared to court trial
- It is voluntary



### Can I request a conciliation?



- In general, the EOC shall conduct an investigation and decide if the cases should be discontinued or proceed to conciliation.
- Where appropriate, the EOC will attempt to conciliate the dispute at an early stage in the complaint handling process. Procedurally, this is taken as "early conciliation".
- If a party wishes to conciliate before the end of investigation, the EOC will attempt early conciliation subject to the consent of the other party.



## How do I prepare for conciliation?



- Be ready to speak out and explain your problems and needs
- Be ready to listen to the other side
- Bring a friend or a lawyer if you need to do so but you must first let us know so that we can get the other party's agreement. If the other party does not agree, you cannot bring another person to the conciliation meeting. Nevertheless, the person you brought may sit at another room so as to allow you to discuss with him when necessary.
- Consider possible outcomes you would like to have
- Be prepared to discuss these possible outcomes



## What do I do at a conciliation meeting?



You should take an active part by:

- stating your case clearly
- asking questions if you don't understand what is being discussed
- listening to the other party's point of view
- suggesting and considering options for resolving the dispute
- helping to reach a final agreement



## Who are the conciliation officers?



- Conciliation officers at the EOC come from a wide variety of backgrounds
- Their training is updated regularly
- They are required to be fair, independent and impartial



What do they do in conciliation?



They:

- make sure everyone has a chance to explain the problem
- encourage each person to listen to what the other has to say
- make sure all available information is understood and considered
- encourage each person to discuss the case and work towards an agreement
- treat each person fairly and impartially
- are required to respect the confidentiality of the parties



How do they help me?



They:

- discuss the issues in dispute by asking questions designed to help all parties exchange information
- develop and examine options for resolution
- draft the settlement agreement according to the wishes of the parties and record the outcome



Will the conciliator keep everything I tell him in confidence?



Yes, all information gathered or heard during a conciliation is kept confidential and will not be used for court proceedings.



### What settlement terms can I ask for?



Terms depend on the circumstances of the dispute. Normally, it is a reversal of the situation that led to the complaint. For example, if a person was dismissed, he could ask to be re-employed. If she was denied a promotion or transfer, she could ask for the promotion or transfer. If training was denied, that could be made as a condition in the settlement term. Other possible items are:

- a letter of apology
- enactment of equal opportunities policies
- financial settlement
- construction of physical access, etc.



### Is the settlement agreement legally binding?



Yes. The agreement is a contract between the two parties and is legally binding.



### What if the conciliation is not successful?



If the conciliation is not successful, the applicant can apply to the EOC for legal assistance to file civil suit in the District Court. The granting of legal assistance is not guaranteed.

The EOC cannot entertain applications for legal assistance unless the applicants have been through the complaints system and conciliation has proved to be unsuccessful. In such cases, the EOC may, if it thinks fit to do so, grant legal assistance.



Under the law, legal assistance may be granted if:

- the case raises a question of principle; or
- it is unreasonable, because of the complexity of the case or the applicant's position in relation to the respondent, to expect the applicant to deal with the case unaided.



Can I institute civil proceedings independently?



Aggrieved persons can institute civil proceedings independently.



Where to Get Help?



The EOC is there to help you. There are educational materials on discrimination laws such as "DDO and I", "SDO and I", "FSDO and I" & "RDO and I". A series of "Know Your Rights" in Sexual Harassment, Pregnancy Discrimination, and other areas are also available.

Visit us at our website at :

<http://www.eoc.org.hk>



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