

Office of the Commissioner for Body Corporate and Community Management

Practice Direction 12

Admissibility of information from conciliation

This Practice Direction is issued pursuant to *section 233* of the *Body Corporate and Community Management Act 1997*. Its purpose is to provide further information on the procedures and content requirements for dispute resolution applications lodged with the Commissioner's Office. Nothing in this Practice Direction supersedes or overrides the requirements of the legislation. The Commissioner retains the discretion to make decisions about the case management of individual dispute resolution applications as provided under Chapter 6 of the Act.

1. The following is a guide to the confidentiality and admissibility of information arising out of department conciliation.

Conciliators and confidentiality

2. A conciliator must not disclose any information about a person that the conciliator acquired in conciliation to anyone else, unless one or more of the following circumstances apply [Act, *section 252L*]:
 - a. with the person's consent;
 - b. for statistical purposes such as departmental reporting, which does not disclose the identity of a party;
 - c. for the purpose of conducting the conciliation session during which the information was provided;
 - d. where the disclosure is reasonably necessary because there is a serious threat to personal property or safety;
 - e. for a proceeding for an offence under the Act; or
 - f. if the disclosure is required under law.
3. Information about a person includes any opinion, admission or offer made by the person in a conciliation session, or the personal circumstances of a person involved in the dispute.
4. Once the conciliator has ended the conciliation process, the conciliator has no further legislative role in relation to the dispute. Unless one of the above conditions applies, the conciliator is unable to enter into any discussion about what was said or done in conciliation with any person – even with a named party or another person who took part in the conciliation – once the certificate has issued.



Admissibility

5. Evidence of anything said or done about a dispute in conciliation is inadmissible in an adjudication process or another legal proceeding outside of the Commissioner's Office [Act, section 252E(5)].
6. This requirement exists to encourage an open flow of information between the parties and assist resolving the dispute in a way that satisfies the parties.



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COMMISSIONER

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