

What is a pre-conciliation?

Pre-conciliation involves the CCMA making contact with parties to a dispute (usually by telephone) soon after the CCMA referral is received, and attempting to conciliate a settlement before holding the conciliation hearing. This method has proved so successful that the CCMA Rules include pre-conciliation dispute resolution as a recognised process.

This means that parties to a dispute do not have to attend a CCMA hearing (unless the matter remains unresolved), thus saving the parties and the CCMA time and money.

Pre-conciliation is only carried out with certain types of disputes, which are less complicated and / or do not involve a large number of applicants. Both parties also have to be readily contactable. A number of bargaining councils have also opted to use pre-conciliation interventions.

Pre-conciliation steps:

- The conciliator will contact both parties, ensuring impartiality, and may need to make several calls to explore settlement options. Note, a pre-conciliation is a voluntary process and no party can be forced to participate or agree to the resolution of a pre-conciliation.
- Where the employee delivers the referral by hand to the CCMA or bargaining council offices, the pre-conciliation will be conducted in the presence of the employee and by communicating telephonically with the employer.
- If the parties do reach a voluntary agreement to settle the dispute, the conciliator will usually draw up an agreement on terms acceptable to the parties, and get both parties to sign it. This is often done by means of fax or e-mail to obtain the signatures of both parties.
- Once both parties (or their representatives) have signed the agreement, the dispute is resolved and a certificate of outcome is issued.
- Both parties are obliged to comply with the terms of the agreement (e.g. if the employer has agreed to reinstate, re-employ or compensate the employee), and the file is closed.

See flow diagram: Telephonic conciliation process

What are the advantages of pre-conciliation?

There are a number of benefits to pre-conciliation:

- The parties have the assistance of an impartial and skilled conciliator without having to leave their home or office.
- The parties are not forced to confront each other face-to-face, which is sometimes uncomfortable, especially for the employee.
- Neither party has the inconvenience of having to attend the conciliation hearing, and the parties save time, transport costs, etc.
- Simple misunderstandings can be resolved without protracted processes.

- The dispute gets addressed quickly, speeding up the whole dispute resolution process.

