



# Disputes policy

Our disputes policy aims to provide a coordinated and consistent approach to managing disputes.

QC 26517

## Objectives

Explains how our policies set out principles for managing complaints, disputes, some compensation and workplace issues.

**Last updated** 1 May 2023

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## What is covered

Our policy sets out the principles for managing:

- complaints
- tax and superannuation disputes
- debt disputes

- access to information disputes
- compensation (excluding workers' compensation)
- disputes relating to a breach of contract between the ATO and its suppliers
- workplace issues with our employees.

## **Our aim**

By providing information about our overall approach to dispute management, and how we deal with specific types of disputes, we aim to promote a resolution culture based on all of the following:

- effective communication
- genuine engagement
- collaboration
- strategies that are
  - fair and proportionate to the matters in dispute
  - lead to early resolution at minimal cost.

## **How we work**

To help us achieve our objectives, we will work with our dispute management stakeholders – our employees, the community, other agencies, courts and tribunals, legal and accounting bodies, dispute resolution practitioners and our various external scrutineers – to identify and promote best practice in dispute management.

We will continue to develop better tools to assess risk and manage disputes and review our communication approach to minimise disputes – for example, by encouraging more phone contact and clearer written communications. We will also continue to review and evaluate our dispute policies and processes and update them as necessary.

# Key principles of dispute management

Outlines our key principles of dispute management.

**Last updated** 1 May 2023

Our key principles of dispute management:

- Disputes should be avoided wherever possible.
- Efforts to resolve disputes should be made as early as possible, including both before and throughout legal proceedings.
- The merits of each dispute (including risks for the ATO and the revenue) should be assessed in a timely fashion.
- Disputes should be managed in a courteous, honest and respectful manner, reflecting the highest ethical standards of public governance.
- Disputes should be managed fairly and flexibly, in a manner which recognises that Commonwealth agencies serve the Australian community and which respects the diversity of the Australian community.
- Disputes should be resolved in the simplest and most cost-effective way that is appropriate to the circumstances. Where appropriate, the parties in dispute should consider the use of effective and professional dispute resolution practitioners whose costs are proportionate to the issues in dispute.
- Disputes should be resolved collaboratively, by listening to other views and putting forward and considering options to resolve the dispute.
- Everybody should have access to, and seek out, information that enables them to choose suitable dispute resolution processes.
- Our employees have a responsibility to take genuine steps to resolve or clarify disputes and will be supported to meet that responsibility by the ATO.

# Tax and superannuation disputes

What to do at times if you may disagree with us about how the law applies to your tax or superannuation affairs.

**Last updated** 1 May 2023

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## Options for resolving tax and super disputes

There are times when you may disagree with us about how the law applies to your tax or superannuation (super) affairs. You may believe we are about to make (or have made) the wrong decision in a private ruling, during an audit or when considering your request for review (usually, this is an objection). Disputes are better managed early by collaboratively working with us.

Disputes relating to a law administered by the Commissioner of Taxation include:

- formal disputes, such as **objections** and related litigation
- collateral challenges, such as under the **Administrative Decisions (Judicial Review) Act 1977**.

## **Avoiding a tax or super dispute**

In some circumstances, we should be able to avoid or minimise a dispute. For example, if you have doubts about your tax affairs you can discuss the issues with us or request a **private ruling** which may resolve this. During an audit or review, we will generally talk to you about matters that concern us. We will explain our concerns and give you the opportunity to consider making a **voluntary disclosure**, if that is appropriate.

If you don't understand, or are concerned about something, contact us as early as possible. We provide a phone number on our correspondence. You may need to provide further documents or information to us to explain your point of view.

If we ask you for information, you should respond promptly, fully and accurately.

In complex matters, it can help to provide us with your view on how the relevant taxation laws apply to you.

## **Early resolution of a tax or super dispute**

We want to work with you to resolve a dispute as early as possible, even, and if possible, before our decision has been made. If you disagree with our view or decision, we recommend you contact us (if you've received a letter or notice from us it will include contact details).

By working together, we may be able to resolve a dispute quickly without the need for more formal review processes. Ongoing dialogue discussion is essential to gain a complete understanding of your circumstances. It also gives us an opportunity to explain our understanding of your situation and our likely answer. This will allow you to consider our view and respond, including providing any further information to help us reach a decision.

If we can resolve the dispute early, costs should be minimised.

## **Disputing (objecting to) an ATO decision**

Refer to [Object to an ATO decision](#).

# Seeking an external review of our decision

Refer to Seek an external review of our decisions.

## Litigation

Refer to Litigation – our policies.

QC 72373

# Debt disputes

What to do if you disagree with us about a debt, and what we can and can't do to help.

**Last updated** 1 May 2023

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## How we approach debt disputes

We have an obligation to collect all money legally owed to the Commonwealth, therefore we usually cannot accept less than the full amount. We will work with you to help you manage the payment of your tax debt – including if deferred payment or payment by instalments is an option.

In our approach to collecting tax and super debt, we seek a balance between considering your individual circumstances and the associated

risks to recovery (including your compliance history and the size of the debt).

Further information can be found at [Help with paying](#).

However, there will be times when we need to take stronger action to recover tax debts.

If your debt reaches the formal debt recovery stage we will continue to consider suitable processes, including dispute resolution processes to resolve the issue prior to, and potentially during, litigation.

Disputes relating to debt matters, include:

- legal action to recover a tax liability
- legal action to recover director penalties
- insolvency proceedings (including bankruptcy and winding up action)
- actions in relation to an unfair preference or other voidable transaction, or where the Commissioner seeks an indemnity from a company director.

## **What you can do if you owe us money**

If you think your assessment is incorrect you can possibly dispute your tax liability. In some cases, for example director penalties, you may be able to demonstrate to us that you have a defence to the liability.

Otherwise, it is your obligation to either pay the debt in full by the due date or make an appropriate arrangement to pay the debt in a timely manner.

## **What if you can't pay**

If you are aware of an upcoming liability that you cannot pay, or we have contacted you about a liability, it is in your interests to engage with us early to discuss payment at a later date or by instalments

We encourage you to talk to us. We are always willing to discuss your situation and we provide a phone number on all our correspondence. You should phone us if you are confused or have difficulty paying. In these circumstances we will:

- explain the situation clearly and listen to what you have to say

- discuss your payment options and financial situation.

If you cannot pay and are unable to agree to a payment arrangement, or are unwilling to engage with us, we will consider firmer debt recovery actions. This may include any of the following:

- issuing a garnishee notice to your bank or a third party
- requesting financial information to assess your ability to pay
- issuing a Directors penalty notice if you are a director of a company
- issuing a statutory demand.

Further information can be found at [Stronger action approach to debt collection](#).

## **What formal debt recovery actions we take**

To recover any debt you owe us, we may do any of the following:

- Start court proceedings to obtain a Judgment that you pay us.
- For individuals, initiate bankruptcy proceedings.
- For companies, initiate winding up proceedings.

## **How we can assist you**

We offer a range of services and tools to assist you to manage your tax debt. You can [phone us](#) to discuss these options.

During the debt recovery process, we will continue to consider suitable arrangements to resolve any issues.

We aim to address debt early, while your liability is more manageable.

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## **Disputes about access to information issues**



The information you can access in a dispute, what to do if you are unsatisfied and what we can do.

**Last updated** 14 October 2024

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[What you can access](#)

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## **What you can access**

You can discuss access to information as part of any dispute including:

- tax and super
- debt
- compensation
- employment.

Disputes about access to documents we hold can arise in many different circumstances. For example, if a person who is subject to a tax or super audit seeks, and is refused, access to copies of some of the documents relied on by auditors to support an assessment.

Procedural complaints and disputes can be referred to us in the first instance, and then to the:

- Office of the Australian Information Commissioner for the way we have dealt with a Freedom of Information request
- Office of the Australian Information Commissioner for privacy matters under the *Privacy Act 1988*.

## **What to do if you are not satisfied**

**With information we provide**

If you are not satisfied with the information we provide, you can use our tools or an administrative access scheme to access more information, including:

- copies of your tax returns and statements – search for 'copies of returns' to access a **request form**
- copies of **public rulings and determinations**
- information about our organisation, powers and functions, annual reports, appointments, arrangements for public comment, information we routinely provide to the Australian Parliament and the precedential material and guidelines we use for decision making from the statutory **Information Publication Scheme**
- your ATO employment records – email the ATO **People Helpline** or phone **13 15 50**.


You can also ask tax auditors for information about our audit position in your case.

If you are an insolvency practitioner, it is now easier for you to get information we hold to help you administer insolvent estates – refer to **Administrative responsibilities of a bankruptcy trustee**.


## **With information from an administrative access scheme**

If you are not satisfied with information from an administrative access scheme, you can make an FOI request.

## **With an FOI decision**

If you are not satisfied with an FOI decision you can request an internal review of our FOI decision. You can also request that the [Australian Information Commissioner](#)  review our FOI decision.

## **With the review of an FOI decision**

You can request that the Information Commissioner review our internal review decision. You can also request that the [Administrative Review Tribunal](#)  review the Information Commissioner's decision.

## **What we can do**

To avoid and minimise access to information issues, we will:

- discuss and when lawful and otherwise appropriate to do so, provide access to your information in regards to your tax, debt, employment or compensation case
- make it easier for you to request information
- give you all the information you are legally entitled to
- work to resolve access to information disputes in the context of any broader dispute
- work with you to ensure FOI is a last resort
- be open to all reasonable opportunities for dispute resolution
- write for the world to see.

QC 72374

## Disputes about how we manage your tax affairs

Your options to enter dispute resolution or to make a complaint.

**Last updated** 1 May 2023

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## Your options in these disputes

If you have concerns about how we have managed your tax affairs or are dissatisfied with the process involved in how we made a decision, you can:

- explore a dispute resolution option
- contact the decision maker or discuss your concerns with ATO Complaints on **1800 199 010**.

## Early engagement

If you have concerns about how we have managed your tax affairs you should talk to the decision maker.

## Consider your claim

You can contact ATO Complaints on **1800 199 010** or the Compensation Assistance Line on **1800 005 172** to discuss your options.

## Submit a claim

Submit a claim by completing the relevant form:

- Complaints form
- Applying for compensation claim form.

## Early resolution

Explore a dispute resolution option.

## Outcome of claim

The ATO officer handling your complaint or claim for compensation will advise you of the decision and our reasons.

## Compensation and your review rights

You can make a compensation claim if you can show that our administration has been defective and that it has caused you financial loss.

We assess and work out the nature of the concern based on the complexity, sensitivity and risk of the matter raised.

We aim to acknowledge receipt of your compensation claim within 3 business days of us receiving it. We will assign your claim to a claims officer and aim to respond within 56 days of receiving your claim.

To make a compensation claim, you can:

- contact ATO Complaints on **1800 199 010** or the Compensation Assistance Line on **1800 005 172** and speak to a specialist trained to help resolve the issues you are experiencing
- complete the **Applying for compensation** form.

The ATO officer handling your complaint or claim for compensation will advise you of the decision and our reasons.

Internal review of compensation decisions is offered in limited circumstances where claimants can provide new information. There is no statutory or administrative requirement for this.

If you are not satisfied with our compensation decision, you can request the Inspector-General of Taxation and Taxation Ombudsman (IGTO) to investigate the handling of the matter.

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## Employee concerns and disputes

Your options if you are an employee and you have a concern or complaint.

**Last updated** 12 December 2023

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[Summary of employee options](#)

## Summary of employee options

Issues such as bullying and harassment, discrimination, misconduct, workplace conflict, and whistle blower reports can be raised as disputes or concerns by employees.

If you are an employee and you have a concern or complaint you can:

- discuss your concerns with your manager or your manager's manager
- email the People Helpline or phone **13 15 50**
- lodge an employee complaint form
- explore an Alternative Dispute Resolution (ADR) option
- request a review of action.

If you are experiencing difficulties coming into work, you can consider contacting the Employee Assistance Program (EAP) on **1800 024 465**. This is a free, independent and confidential service that provides professional early intervention counselling for all ongoing and non-ongoing ATO employees, their partners and immediate families.

If you feel a decision has been made that adversely impacts on you and you cannot resolve with the decision maker, you can request a review of employment actions.

## What we can do

We will assess and determine the nature of the concern based on the complexity, sensitivity and risk of the matter raised.

We aim to address workplace concerns early, by dealing directly with you and the source of your concern.

The People Helpline can provide assistance and escalate to specialists trained to resolve the issues you are experiencing.

We offer a range of services and tools to assist you and your manager to resolve workplace concerns. You can email the People Helpline or phone **13 15 50** to discuss your options.

We use alternative dispute resolution processes such as:

- mediation
- conflict resolution
- facilitated discussion to resolve workplace concerns.

If the matter is complex or cannot be resolved at an early stage, we may need to investigate further.

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## Dispute management strategies

How our strategies work towards resolving disputes early and in a fair and effective manner.

**Last updated** 1 May 2023

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## How dispute management helps

Our strategies are directed to resolving disputes early and in a fair and effective manner, to provide the community with confidence in the integrity of the tax system.

We encourage our employees to consider dispute management options at all stages of each dispute. We consider that some form of dispute management can be used in most, if not all, matters, to:

- narrow the issues in dispute
- foster mutual understanding of interests
- enable the dispute to progress more efficiently, even if it ultimately progresses to litigation.

We believe that ongoing discussion is essential to the effective management of disputes. It promotes a complete understanding of the facts and circumstances of the dispute. It also provides an opportunity for both sides to explain their views and discuss the options available to resolve or limit the scope of the dispute, or to remove any blockers to its progress.

We progressively review most aspects of our approach to dispute resolution and continue to update our approach and implement necessary changes.

## **Tax and super disputes**

We believe that early and ongoing discussions with clients are essential to provide:

- a complete understanding of the facts and circumstances of the dispute
- the opportunity for both sides to explain their views, listen to alternatives and discuss available options for resolving the dispute.

## **Disputes about access to documents (including FOI)**

The *Freedom of Information Act 1982* (FOI) operates to help reduce the number of disputes, including:

- helping applicants to make a request so that it does not attract refusal provisions
- consulting with applicants about the imposition of charges and the scope of the request



- consulting with third parties about their interest in documents falling within the scope of the request.

The ATO approach is to provide information informally wherever possible. When practicable to do so, our decision makers deal with FOI applicants outside the FOI Act, subject to agreement of the applicant.

We support and endorse the APS and ATO values of openness and transparency, and believe that pro-active disclosure will produce better outcomes and lead to a reduction in disputes and less need for people to make applications under the *Freedom of Information Act 1982*.

We encourage our employees to give taxpayers information about decisions that have directly affected them (where allowed under law). A large number of corporate and operational documents are available on our website under the Information Public Scheme and from our contribution to the Australian Public Service.

Further information can be found at [Information Publication Scheme](#).

## Complaints

We handle all ATO complaints in accordance with the Taxpayers' Charter.

We offer a variety of channels to lodge complaints, including a dedicated phone hotline **1800 199 010** and an **online complaints form**. We also give access to a network of complaints resolvers across all business areas of the ATO.

If a complaint is upheld, we may apologise as part of the resolution of the complaint.

A dedicated team of our case managers deal independently with more difficult complaints, including those that are escalated by business areas. We also have a Liaison Unit to manage our relationship with the Inspector General of Taxation and Taxation Ombudsman, (IGTO) including any investigations they refer to us.

We have corporate and business area quality assurance processes for complaints including IGTO interactions.

We use the ATO Professionalism Survey to do both of the following:

- measure community perceptions of our complaints handling process

- monitor and report on performance against service standards and other aspects of complaints handling, such as trend information, feedback, and systemic or recurring issues.

## **Compensation disputes**

We take responsibility for our actions that cause compensable financial loss. Above all, we apologise for our mistakes. We do not take a defensive approach to liability, and we do not want you to have to resort to litigation to make a legitimate monetary claim.

Instead, we take a common sense and pragmatic approach to the resolution of disputes in this area. When we assess a monetary claim made against us, we aim for early resolution by negotiating a fair and publicly defensible outcome with you, balancing the need for integrity and rigour in the claims assessment process with community expectations, natural justice and timeliness.

## **Employee concerns and disputes**

We have dispute avoidance and settlement procedures in our Enterprise Agreement that emphasise the importance of discussions between the employee and their manager.

We acknowledge allegations and complaints as quickly as possible (in most cases within 5 days) and approach all complaints and allegations with an open mind.

We explore dispute resolution options with those in dispute and provide reasons for any decisions we make, unless there are specific reasons why we cannot do so. For example, allegations of criminal behaviour or whistle blowing have formal and structured responses which must comply with the relevant standards.

We recommend appropriate changes to address any systemic or other problems identified during the dispute.

# Regulatory and policy framework for disputes

Describes the regulatory and policy framework that governs the way we deal with different types of disputes.

**Last updated** 14 October 2024

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## Regulatory and policy framework


We recognise that there is a regulatory and policy framework that governs the way we deal with different types of disputes. Some regulatory requirements and ATO policies apply to all of our disputes. Our strategies for resolving disputes must continue to operate within this regulatory and policy framework.

These include:

- provisions of the [Public Governance Performance and Accountability Act 2013](#) [↗](#) about appropriate spending of Commonwealth monies
- provisions of the [Legal Services Directions](#) [↗](#) dealing with the Commonwealth's obligations as a model litigant and with handling of monetary claims
- the [Civil Dispute Resolution Act 2011](#) [↗](#) which encourages the resolution of civil disputes prior to filing applications in the courts

- the [Prosecution policy of the Commonwealth](#)  and our policy statement on Fraud Control and the Prosecution Process
- the Taxpayers' Charter – outlines what you can expect from us in our dealings with you
- our statement PS LA 2009/9 *Conduct of Tax Office litigation* sets out our approach to the conduct of litigation
- our statement PS LA 2013/3 *Alternative Dispute Resolution (ADR) in ATO disputes* that sets out policies and guidelines we follow when attempting to resolve or limit disputes by using various dispute resolution processes.

Review mechanisms for all types of disputes include:

- requests for judicial review of certain administrative decisions under the **Administrative Decisions (Judicial Review) Act 1977** by the Federal Court
- complaints to the [Inspector General of Taxation and Taxation Ombudsman \(IGTO\)](#)  that has a specialist team focusing on reviewing the problems arising between us and clients.






## Complaints

With complaints, the following apply:



- You have the right to make a complaint under the Taxpayer's Charter.
- Registered agents can make a complaint to the ATO about ATO decisions, services or actions.
- We deal with complaints in accordance with the Taxpayers' Charter.
- **Feedback and complaints** explains how registered agents can make a complaint.
- **Complaints, compliments and feedback** offers general information.
- The charter can be found at **Taxpayers' Charter**.

## Tax and super disputes

With tax and super disputes, the following apply:

- The **Code of settlement** practice provides guidance on our approach to settlement of taxation disputes.
- The confidence in the tax compliance of large corporate groups provides guidance on how we will work with large business to resolve disputes.
- You can make an application for litigation funding under our **Test Case Litigation Program** if it is in the public interest to clarify the issue in dispute.
- You have the **right to object** against some of our decisions if allowed by law. If you object, our decision will be reviewed by an ATO officer who was not involved in the original decision.
- If you disagree with our decision on your objection you will have the right to seek an external review under Part IVC of the [Taxation Administration Act 1953](#)  by the [Administrative Review Tribunal](#)  [ART] – dispute resolution processes made available by the Tribunal prior to a hearing include
  - conferencing
  - mediation
  - neutral evaluation
  - case appraisal
  - conciliation.
- If you disagree with our decision on your objection you will also have the right to an external review under Part IVC of the [Taxation Administration Act 1953](#)  by the [Federal Court](#)  – dispute resolution processes made available by the court prior to a hearing include [mediation](#) .
- With international disputes, mutual agreement procedures are available under our international tax agreements and can be conducted by us with revenue agencies for other countries if we have an agreement to avoid double taxation of taxpayers with them.

The [OECD website](#)  has information on:

- [Dispute resolution](#) 
- [Dispute resolution – MAP profiles](#) 

- Manual on Effective Mutual Agreement Procedures
- Confidence in the tax compliance of large corporate groups.



## Debt disputes



With debt disputes, the following apply:

- Our statement PS LA 2011/7 *Settlement of debt litigation proceedings* sets out our guidelines in relation to settlement, recovery and compromise of litigation to recover tax debts.
- An outstanding debt for a matter you dispute continues to accrue interest while the dispute is unresolved – refer to **Interest and penalties**.
- Our statement PS LA 2011/4 *Collection and recovery of disputed debts* also provides guidelines for managing the collection and recovery of disputed debts.
- Our statement PS LA 2011/3 *Compromise of undisputed tax-related liabilities and other amounts payable to the Commissioner* sets out our guidelines in relation to factors to be considered and principles to be applied in reaching decisions on applications to compromise undisputed taxation debts.
- Sometimes we need to use stronger actions to recover outstanding tax debts. For more information about when this may occur and what action we may take, refer to **Stronger action**.

## Access to information, compensation and privacy disputes



With access to information, compensation and privacy disputes, the following apply:


- Our policy for handling compensation and similar monetary claims against the ATO is set out at **Applying for compensation**.
- The Commonwealth's circular on [discretionary compensation and waiver of debt mechanisms](#) , relates to compensation for detriment caused by defective administration. See **Applying for compensation** and [act of grace payments](#) .

- Comcover is the Australian Government's general insurance fund. Commonwealth agencies that are fund members, such as the ATO, can purchase cover for all normally insurable risks (with the exception of workers' compensation) – you can find general information about claims to [Comcover](#) .
- The [Office of the Australian Information Commissioner](#)  issues, as part of its administration of the *Freedom of Information Act 1982* and the *Privacy Act 1988*, guidelines that decision-makers must apply.

## Employee disputes

With employee disputes, the following apply:

- Our employees are able to obtain an overview of available guidelines and processes through which they can raise allegations or issues of concern. Our documents and procedures encourage officers to resolve the matter informally and as soon as possible. This approach is reflected in the dispute avoidance and settlement procedures under our Enterprise Agreement which has an initial emphasis on discussions between the employee and their manager.
- Unresolved workplace disputes can be referred to Fair Work Australia. Members of [Fair Work Australia](#)  are experienced in a wide range of dispute resolution techniques including
  - conciliation
  - mediation
  - arbitration.
- Requests for a review of employment decision through the [Merit Protection Commission](#)  – offer the following forms of dispute resolution
  - workplace conferencing
  - mediation
  - conciliation
  - arbitration.

- Complaints of discrimination in employment can be made to the [Australian Human Rights Commission](#) .

QC 72378

## Dispute resolution processes and practitioners

Gives an overview of options for dispute resolution and describes each process.

**Last updated** 14 October 2024

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## Options for dispute resolution

At any stage of a dispute, the parties can confer on the best way to resolve it. They can engage a dispute resolution practitioner to resolve the dispute if they consider that direct negotiation has been sufficiently and genuinely attempted and that the circumstances of the dispute satisfy the relevant ATO policy *PS LA 2013/3 Alternative Dispute Resolution (ADR) in ATO disputes*.

Courts and tribunals that review our disputes make various dispute resolution processes available. The parties work with the courts and tribunals to identify which process will best suit the circumstances of the dispute. The dispute resolution practitioner who conducts those processes is generally an official of the court or tribunal.

The section on review mechanisms for ATO decisions sets out the dispute resolution opportunities available at various external venues including the ART, the Federal Court and Fair Work Australia.



# Types of processes

The structure of a particular dispute resolution process is agreed by the parties (and any dispute resolution practitioner) on the basis of the unique circumstances in the particular dispute.

The types of dispute resolution processes available **prior to litigation** include:

- [Negotiation and case conferencing](#)
- [Facilitation](#)
- [Mediation](#)
- [Conciliation](#)
- [Neutral evaluation](#)
- [Dispute resolution practitioners.](#)

Negotiation and case conferencing do not need a dispute resolution practitioner.

## Negotiation and case conferencing

Negotiation and case conferencing refers to a discussion between the taxpayers, their representatives and relevant tax officers.

The case conference:

- would usually be prearranged, have an agreed agenda and consideration of who should attend the conference
- may be face-to-face or by phone
- will often involve more than one tax officer, such as the tax officer(s) handling the dispute and any technical experts
- may also have an ATO officer acting as a facilitator.

## Facilitation

A facilitator is an ATO officer who is independent of the matter in dispute. The facilitator:

- should be involved in planning and understand the purpose of the conference

- is useful if there will be a number of people at the conference, the matter under discussion is complicated, or if previous contact between the parties has not been successful.

The facilitator's role is to guide the parties through their discussion, making sure the participants focus on the purpose of their work together.

## **Mediation**

Mediation is a process managed by a dispute resolution practitioner called a mediator. The mediator assists participants to:

- present points of view and facts
- identify the issues in dispute, develop options and try to reach an agreement.

The mediator does not give advice or make a decision on the facts of the dispute or its outcome. They may give advice on or choose how the process of mediation is conducted.

## **Conciliation**

Conciliation is a process managed by a dispute resolution practitioner called a conciliator. The conciliator:

- assists participants to identify the issues in dispute, develop options and try to reach an agreement
- provides advice on the disputed matters and options for resolving them. A conciliator may have professional expertise in the subject matter in dispute.

They will not make a decision about how to resolve the dispute.

## **Neutral evaluation**


Neutral evaluation is a process where participants present points of view and facts to a dispute resolution practitioner (an evaluator) who evaluates the key issues in dispute, and provides an opinion as to the most effective way to resolve it. The evaluator does not make a decision on the disputed facts.

## **Dispute resolution practitioners**

Dispute resolution practitioners are selected to assist in our disputes because of their skills in managing dispute resolution processes like mediation, conciliation and neutral evaluation, and sometimes also because of their additional knowledge on the general issues in dispute such as tax or insolvency law.

The practitioner must be an independent, impartial and neutral person who is experienced in dispute resolution and competent to conduct the particular dispute resolution process agreed on by the parties.

Any costs of a dispute resolution process are usually shared equally between the parties. In exceptional situations, consideration will be given to the ATO meeting the costs of the dispute resolution practitioner, for example in employment law disputes with our staff.

The Attorney-General's Department's [Access to justice](#)  web page provides links to organisations whose members are dispute resolution practitioners. Many of these organisations provide information about their members which helps to identifying a suitable practitioner for a particular dispute.

We have a panel of practitioners available to help resolve employee disputes.

For further information refer to [Access to justice](#) .

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## Rights and obligations of parties in dispute

Outlines how you can contribute, what we will do and what happens if we cannot agree.

**Last updated** 1 May 2023

### On this page

[How you can contribute](#)

[What we will do](#)

## How you can contribute

To make sure we apply the law to your circumstances correctly, you should:

- provide all relevant information as early as possible so that we can make correct and timely decisions regarding your circumstances (it is not necessary to wait for us to ask for it and doing this may actually lengthen the dispute)
- respond promptly, fully and accurately if we ask for information or clarification about something you've told us
- give us your view on how the relevant laws apply to your circumstances, if you consider this would help us (for example, in complex matters)
- let us know as soon as possible if you think we've misunderstood something or made a mistake.
- If you have a representative acting for you they should be prepared, willing and skilled to work with us to resolve the dispute and if necessary have the authority to settle.

## What we will do

To ensure we apply the law correctly to your circumstances we will, where appropriate:

- talk with you as early as possible to ensure we have a shared understanding of the issues and relevant facts in the matter
- ask for any additional information we think we need to make our decision and explain to you why we need it
- explain our view to you and listen to, and fully consider, any issues or alternative views you put forward
- ensure we are clear on where we agree and work to identify and, if possible, resolve any issues in dispute
- ensure our external lawyers are aware of and follow our policies on dispute management

- send someone to you that has the authority to settle to all dispute resolution processes or when this is impractical, someone with authority will be available to participate by video or phone.

## **If we cannot agree**

If we are still unable to resolve the issues in dispute we may also:

- use other dispute resolution processes, which may include engaging a dispute resolution practitioner to assist us to resolve the dispute
- discuss settlement with you under our code of settlement practice if it is a tax dispute
- involve one of our debt officers who will work with you where the dispute is primarily about your inability to pay a debt to us.

Whatever the type of dispute, we need to work together to gain a full understanding of your circumstances and ensure that we have applied the law correctly. By pursuing this course we may be able to resolve the dispute or at least narrow the issues for potential external review.

For further information refer to **Code of settlement**.

QC 72380

## **Management and operation of disputes policy**

Explains how the ATO Executive sets the overall dispute resolution strategies for the ATO.

**Last updated** 1 May 2023

The ATO Executive sets the overall dispute resolution strategies for the ATO.

Second Commissioner Law Design and Practice and Second Commissioner Objections and Review with the Chief Operating Officer manage the implementation and governance of the ATO Disputes

Policy and Dispute Management Plan (DMP) across the ATO business lines.

The First Assistant Commissioner, Law Design and Practice is responsible for the overall development, implementation, evaluation and review of the ATO Disputes Policy and DMP.

ATO employees and our legal service providers manage individual disputes in accordance with the ATO Disputes Policy and DMP.

ATO employees, business line managers and ATO People manage internal workplace conflict in accordance with the ATO Disputes Policy, DMP and relevant corporate policies.

For more information, refer to:

- Resolving disputes
- Dispute Resolution Working Group.

QC 72381

## Evaluation and review

How we review the ATO Disputes Policy and consider the need for any amendments to our strategies and approach.

**Last updated** 1 May 2023

We will review the ATO Disputes Policy regularly and consider the need for any amendments to our dispute management strategies and approach, and other matters as appropriate. We will also publish any amendments as soon as possible and report publicly each year.

Matters considered include where we have:

- increased satisfaction with the dispute process for both taxpayers and tax professionals
- increased the number of people using dispute resolution processes such as negotiation, case conferencing, mediation and conciliation
- periodically reported information to the public.

## **Our commitment to you**

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we should take.

Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year before making decisions based on that information.

If you feel that our information does not fully cover your circumstances, or you are unsure how it applies to you, contact us or seek professional advice.

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