

## **Guidelines for Experts' Conferences**

- 3.1 An experts' conference is a meeting between the expert witnesses at which the experts discuss the issues on which they have prepared reports, for the purposes of identifying:
  - Factual matters on which the experts agree.
  - Matters in dispute and the reasons for the disagreement.
- 3.2 The process is designed to narrow points of difference and save hearing time.
- 3.3 The conference will be chaired by a Member of the Tribunal. The role of the experts' conference chair does not include the making of orders or directions in the claim, or the giving of evidence as to the conference. Apart from the agreed statement, evidence of things said and done at the conference is confidential and not generally admissible in the hearing.
- 3.4 The duty of every expert witness is to assist the Tribunal impartially in relation to technical matters that lie within that expert's area of expertise. All expert witnesses should be familiar with, and at all times comply with, the Code of Conduct for expert witnesses set out in the Chairs Directions – Expert Witnesses Code of Conduct.
- 3.5 It is for the Tribunal to determine whether a person qualifies as an expert and may attend the experts' conference. Such decisions will generally be made by the member assigned to the claim but may also be determined by the person chairing the experts' conference.
- 3.6 Any expert who acts as an advocate for a party or who does not act impartially during the course of the experts' conference may be excluded from the experts' conference by the facilitator.
- 3.7 Any expert who is not authorised to reach agreement on appropriate factual matters or to participate appropriately in the experts' conference may be excluded from the conference. In addition any party who does not allow their expert to attend or participate in the experts conference may be precluding from challenging the matters agreed to at the experts' conference.
- 3.8 The case manager assigned to the claim will arrange the venue of the conference, and advise the parties and the experts. It is noted that:
  - Experts should have prepared their reports or briefs of evidence and filed them with the Tribunal in accordance with the timetable set. All

parties are to ensure their experts received copies of all such reports and evidence prior to the conference.

- The Tribunal member assigned to the claim will set out the agenda for the conference, which will be circulated before the conference.
- The experts will confer in the absence of the parties and their legal advisors
- The experts must try to reach agreement on the agenda which will generally include items in the leaks list or schedule (that is, the location and / or causes of leaks, the extent of damage, and the remedial work required and remedial costs) or state their reasons for disagreement.
- The agenda and matters agreed to at the conference will not cover conclusions as to the liability of any particular party for the damage.

3.9 At the conclusion of the conference, the experts should prepare and sign a joint statement stating the matters on which the expert witnesses agree and the matters on which they do not agree, including the reasons for disagreement. This joint statement must be prepared without the assistance of the legal advisors to the parties.

3.10 The joint statement will be provided to the assigned Case Manager, who will circulate it to all parties to the claim.

3.11 The Tribunal will restrict the calling of any further evidence and any cross-examination of experts on the factual matters agreed to at the experts' conference. The Tribunal will however allow further evidence and questioning of experts on the issues of liability.