

Office of the Commissioner for Body Corporate and Community Management

Practice Direction 20

Specialist adjudication

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. This practice direction specifies additional content requirements for applications for specialist adjudication.
2. The legislation provides that a 'complex dispute' must be determined either by a specialist adjudicator or by the Queensland Civil and Administrative Tribunal (QCAT). Refer to *Practice Direction 25: Complex disputes*.
3. A specialist adjudicator is normally a legally qualified person of senior standing, with experience in the area of law in which the dispute relates and who has demonstrated capacity to determine disputes.
4. The Commissioner's Office does not maintain a list of specialist adjudicators or make recommendations to applicants about potential nominees for appointment as a specialist adjudicator. An applicant seeking the appointment of a specialist adjudicator to determine their dispute may instead wish to contact the Queensland Law Society, or the Queensland Bar Association or the Institute of Arbitrators & Mediators Australia for potential nominees.
5. An application for specialist adjudication is commenced by lodging an *Adjudication Application Form* [BCCM Form 15], accompanied by the prescribed fee, with the Commissioner's Office.
6. The application must include the following information:
 - a. the name and contact details of the nominee for appointment as the specialist adjudicator for the dispute;
 - b. a statement from the nominee consenting to the appointment;
 - c. a statement from the nominee confirming they have no prior knowledge or involvement with any party to the dispute that could give rise to a possible or perceived conflict of interest in determining the dispute;
 - d. details of the nominee's qualifications, experience and standing to determine the dispute;
 - e. written agreement from the respondent to the nomination and to the remuneration of the nominee; and
 - f. written confirmation from the nominee of their agreement to the amount of remuneration.



7. The Commissioner may only refer the application to the specialist adjudicator for determination if the Commissioner is satisfied that:
 - a. the applicant and the respondent, agree on the person to be nominated as the specialist adjudicator for the dispute;
 - b. the parties and the nominee agree on the amount the nominee is to be paid as the specialist adjudicator;
 - c. the parties agree how and by whom the amount is to be paid, or agree that the amount is to be paid in the way decided by the specialist adjudicator; and
 - d. the nominee has the qualifications, experience or standing appropriate to be appointed as the specialist adjudicator for the dispute.
8. If the named respondent to the adjudication application does not agree to the appointment of a specialist adjudicator for the dispute, then the application will not be able to proceed in the Commissioner's Office.
9. Where a body corporate is a party to an application for specialist adjudication, a committee resolution is sufficient to demonstrate the body corporate's agreement with the nominee for appointment as specialist adjudicator and the arrangements for payment of the nominee's remuneration, provided that the potential remuneration for the specialist adjudicator is within the committee's spending limit.
10. Parties wishing to pursue a complex dispute in QCAT should contact the QCAT registry regarding the relevant application requirements at www.qcat.qld.gov.au, on telephone 1300 753 228 or by email to enquiries@qcat.qld.gov.au.

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