

## Office of the Commissioner for Body Corporate and Community Management

# Practice Direction 5

## Awarding costs

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 parties to a dispute resolution application are generally required to meet their own costs. This includes the application fee, the fee for inspecting or obtaining copies of any submission or reply, any personal costs incurred to attend a conciliation session, and any legal costs incurred in making or responding to an application.
2. Neither the Commissioner nor a conciliator have the legislative power to award costs against a party.
3. An adjudicator has no general powers to award costs. If an adjudicator dismisses an application for adjudication because it is frivolous, vexatious, misconceived or without substance, the adjudicator may order costs against the applicant for loss resulting from the application to the respondent, the body corporate or another affected person under the Act. This can include legal expenses. The costs awarded must not be more than \$2,000.
4. If asked by an applicant, an adjudicator may make an order that a respondent pay the prescribed application fees paid by an applicant for the adjudication and conciliation applications. This order could only be made where the:
  - a. two applications are about the same dispute; and
  - b. two applications have the same respondent; and
  - c. the Commissioner ended the conciliation application because the respondent failed, without reasonable excuse, to participate in conciliation.

### COMMISSIONER FOR BODY CORPORATE AND COMMUNITY MANAGEMENT

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