



PRACTICE DIRECTION 4

Interim orders

Practice directions are issued pursuant to [section 233](#) of the *Body Corporate and Community Management Act 1997* (the Act). They provide directions and information about internal dispute resolution processes and the Commissioner's dispute resolution service. Practice directions must be interpreted and applied consistently with the Act. They do not limit the discretion of the Commissioner or dispute resolution coordinators when assessing individual applications. Anything done by a person for internal dispute resolution or the dispute resolution service is subject to any relevant practice direction.

What is an interim order?

1. An interim order is a temporary order designed to stop harm or disadvantage occurring while an application for a final order is being processed and decided.
2. An interim order is not appropriate in all adjudication applications. Examples of appropriate interim order applications are provided below.
3. An applicant who wants a final order in an emergency should instead consider applying for an emergency referral—refer to [Practice Direction 6 – Emergency applications](#).

Example: *A committee seeks emergency spending authorisation because a burst water pipe is causing serious damage to property. The spending on the repair works otherwise needs approval from owners in a general meeting, as the cost is above the committee's usual spending limit, but that delay will lead to further damage.*

4. Alternatively, if significant harm is occurring but it is not an emergency, an applicant for a final order may ask for it to be dealt with more quickly than usual ('expedited').

Example: *A lot is uninhabitable due to mould.*

5. The Commissioner will not give notice of an interim order application to the respondent or affected parties or invite submissions from them.
6. However, the adjudicator may decide to invite a submission from the respondent if appropriate and time permits. This may be on condition that the respondent gives a written undertaking not to take further steps until the adjudicator decides the interim order application.
7. There is no right for the applicant to reply to submissions on an interim order application.

Requirements for an interim order application

8. An application for an interim order must be made as part of an application for a final order, on [BCCM form 15](#), with reference to the [Guide to completing the adjudication form](#). See also [Practice Direction 3 – Adjudication applications](#).

9. Because an interim order application may be decided without submissions from the respondent and affected persons, the application must fully provide all of the relevant facts, evidence, and arguments, both for and against the application.
10. An applicant is encouraged to inform the respondent that they intend to make an interim order application unless the respondent agrees not to take further steps in relation to the dispute, and to include any response in their application materials.
11. An interim order application must address the following:
 - the applicant's grounds for the final outcomes sought by the application and how the interim order is related to a final outcome.
 - the facts, evidence and arguments favouring both sides of the dispute
 - why there is an urgent need for, or the nature of the circumstances require, an interim order
 - if the applicant delayed making the application, why the delay was reasonable in the circumstances or unavoidable
 - the likely harm or disadvantage to the applicant if the interim order is not made
 - the likely harm or disadvantage to the respondent if the interim order is made, and
 - the applicant's attempts to stop the harm or disadvantage occurring.

Examples of appropriate interim order applications

12. The following are examples of appropriate interim order applications:

Example: *The applicant body corporate is concerned that a lot owner who is renovating their lot is also doing works which will alter common property without the required body corporate approval. The body corporate requests a final order that the lot owner must cease the work or get body corporate approval.*

The body corporate is concerned the owner may alter the common property in the meantime. The body corporate also applies for an interim order to stop the lot owner continuing with any works, until the adjudicator makes a final decision. The body corporate explains that the lot owner's works are improvements which are not urgently required and could be delayed until a final decision on their application, without significant loss or harm to the lot owner.

Before making the application, the committee tells the lot owner they will apply for interim and final orders if they do not agree to temporarily pausing the works until a final order is made, and the lot owner refuses. The applicant includes the lot owner's response in their application materials.

Example: *The applicant lot owner is being threatened with debt recovery action by the body corporate in relation to an insurance excess contribution for repairs to common property. The applicant seeks a final order that they are not liable for the debt.*

The applicant is concerned that in the meantime the body corporate will seek to enforce payment of the debt and obtain judgement against them, which would affect their ability to pay other large upcoming bills. The lot owner therefore also applies for an interim

order to stop the body corporate taking any debt recovery action, until the adjudicator makes a final decision. The applicant explains that there would be no harm caused to the body corporate by temporarily delaying recovery of the debt if in fact they are entitled to do so.

Before making the application, the applicant tells the committee they will apply for interim and final orders if they did not agree to temporarily pausing the debt recovery action until a final order is made, and the committee refuses. The applicant includes the committee's response in their application materials.

COMMISSIONER FOR BODY CORPORATE AND COMMUNITY MANAGEMENT

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