

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

# Practice Direction 8

## Conciliation applications

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. Applicants must complete the [Conciliation Application Form \[BCCM Form 22\]](#).
2. Applicants are encouraged to complete the application form online at [www.qld.gov.au/bodycorporatedisputes](http://www.qld.gov.au/bodycorporatedisputes) and then post or email the completed form to the Commissioner's Office.
3. Alternatively, a hardcopy of the application form, to be completed manually, can be downloaded from the above website or obtained from the Commissioner's Office. The hardcopy includes a guide to completing the application form.

### Case management

4. When an application is received by the Commissioner's Office, a new file is opened and allocated a unique file reference number.
5. The applicant is sent a letter acknowledging receipt of the application and any application fee paid (if applicable). This letter includes the file reference number which must be included by the applicant in all communication with the Commissioner's Office about the application.
6. The application is then assessed by the Commissioner or a delegate, generally, a case manager. The assessment will determine whether the application complies with the legislative requirements and Practice Directions, including whether the dispute falls within the jurisdiction of the Commissioner's Office.
7. At all times the onus is on the applicant to 'make their case', in other words, to ensure their application form is correctly completed and meets legislative requirements. The Commissioner's Office cannot complete application forms for applicants and nor can the Commissioner's Office instruct applicants on how to complete their application form.
8. Applications must be lodged with the prescribed fee.
9. In addition to the information in the online form and guide, applicants should note the following:

### Applications must be clear and legible

10. The application form and any attachments should preferably be typed, in a clear font. Handwritten applications must be clear and legible.
11. If an application is not clear and legible, whether typed or handwritten, the applicant will be requested to submit a revised application that is clear and legible.

### **Applicant and respondent**

12. The applicant is the person who is making the application. The respondent is the other person or party with whom the applicant has a dispute.
13. If the applicant has disputes against separate respondents, generally separate applications will be required (each accompanied by the prescribed fee).
14. Where the applicant is a body corporate, a copy of a committee or general meeting resolution authorising lodgment of the application must be supplied.
15. A dispute can only be between certain combinations of parties [[Act, section 227](#)]. For example, an owner or occupier can only bring an application naming the body corporate or another owner or occupier as a respondent. An owner or occupier cannot lodge an application against the body corporate manager, the committee or a caretaker (refer to the online form or guide for full details).
16. If an owner has a dispute about a decision made, or the failure to make a decision at a general meeting or committee meeting, the respondent to the dispute would normally be the body corporate.

### **Outcome sought**

17. The applicant must provide a short statement of what outcome they believe would resolve the matter. Generally, the outcome should clearly identify the action that the applicant wants the respondent to take, or to cease, in order to resolve the dispute.

### **Background**

18. This must summarise the dispute including what has occurred, and what rights, powers and responsibilities exist under the Act that have not been complied with or that entitle the applicant to the outcome sought.
19. If the applicant is relying on supporting documentation, these should be clearly identified and referenced in the summary.
20. Information included in the application assists the conciliator, the respondent and any affected party to understand what the applicant wants and the reasons why the application has been made.

### **Internal dispute resolution**

21. Refer to [Practice Direction 23: Internal dispute resolution for further details](#).

### **Amendment or withdrawal of application**

22. An applicant can request to amend their application or provide additional information prior to the referral to conciliation.
23. If necessary, the case manager will contact the applicant and request them to:
  - a) clarify information or documents related to their application, or provide additional information or documents to satisfy the requirements of the legislation and Practice Directions
  - b) if amendments are substantial, the case manager may request that replacement pages are provided
24. An applicant may withdraw an application in writing at any time before the conciliation application is finalised. Once an application is withdrawn, the Commissioner's Office will take no further action in relation to the application.

### **Privacy and confidentiality**

25. Certain provisions of the body corporate legislation authorise a department conciliator to disclose the contents of a conciliation application to the respondent, the body corporate and other interested persons for the application.
26. It is the responsibility of an applicant to ensure the application and any supporting material contains only information that the applicant is prepared to have made available to all other parties to the dispute.

## **COMMISSIONER FOR BODY CORPORATE AND COMMUNITY MANAGEMENT**

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Version 4

Effective 17 June 2021

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