

## Referee Guideline 2

### Application for an order by a referee

---

Referee Guidelines are educational tools designed to assist parties in understanding the processes and requirements of an application for an order of a referee. For any given application, the referee may exercise discretion in the case management of the application according to its circumstances and as provided for in Part 5 of the *Building Units and Group Titles Act 1980* (BUGT Act).

---

1. This guide sets out the requirements and otherwise gives information about an application for dispute resolution by a referee's order.
2. For further guidance, refer also to *RG 1: Application process* and *RG 3: Interim orders*.
3. Applicants are also encouraged to read the [Guide to application for order by a referee](#) (the guide) before completing the application form.

#### Submitting an application

4. An applicant for a referee's order should use the application form [Application for an order by a referee](#), to ensure the application meets the requirements of the BUGT Act and is otherwise suitable for its purpose. Those legislative and practical requirements are discussed below.
5. The applicant is responsible for ensuring their application is made correctly, meets the legislative requirements and provides sufficient information to enable a referee to investigate and determine the application, and other parties to respond to it.
6. The application form, submissions and supporting documents must be clear and legible (preferably typed). The referee may require the applicant to resubmit unclear documents.
7. If the applicant is a body corporate, a copy of a committee or general meeting resolution authorising the application must also be supplied.
8. A referee will not complete the application form for the applicant or advise them on its contents. However, the referee may require an applicant to amend their application and may refuse to proceed with the application until such a requirement is complied with.

#### Identifying the parties

##### *Applicant and respondent*

9. The applicant is the person who is making the application. The respondent is the person or party against whom the applicant seeks an order.



10. An application may name different respondents for the purposes of different orders on the one application if they relate to the same circumstances. Otherwise, separate applications may be required, each accompanied by the prescribed fee.
11. Sections 77 to 94C of the BUGT Act indicate the restricted types of applicant or respondent for different types of orders. For example, for an order pursuant to section 81 of the BUGT Act, the applicant may only be a proprietor (owner) and the respondent may only be a body corporate.
12. If, for example, a proprietor 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 is the body corporate.
13. An affected person means a person (other than the applicant or respondent) who, in the referee's opinion, would be affected if the order sought were made.

#### *Affected person*

14. Common examples of an affected person for an application include:
  - a. where the proprietor is seeking an order against the body corporate for the body corporate to enforce a by-law, the person allegedly contravening the by-law is an affected person
  - b. where a non-owner occupier of a lot is seeking an order against the body corporate for refusing permission to keep a pet, the owner of the occupier's lot is an affected person.

#### Orders sought

15. The applicant must clearly and concisely set out the orders sought.
16. If the applicant wants the respondent to take, or to cease taking, an action, the requested order should specifically identify that action. For example, if the dispute is about someone parking on the common property driveway in contravention of a parking by-law, the requested order should require the respondent not to park on the driveway, rather than an order to simply comply with the parking by-law.
17. If an applicant is seeking multiple orders, each order should be separately numbered.

#### Supporting grounds and attachments

18. The applicant must provide all information, arguments and supporting evidence necessary to satisfy the referee that each requested order should be made.
19. Do not include irrelevant information, arguments and attachments.
20. The applicant's information and arguments must be contained within a clearly identified "statement of grounds". The statement of grounds should generally comprise a single document (excluding attachments).
21. The statement of grounds should:
  - a. be specific, concise and to the point, and include all details relevant to the orders being sought
  - b. demonstrate there is a genuine dispute: that is, a disagreement between the applicant and respondent that the applicant has been unable to resolve directly with the respondent



- c. describe what actions the applicant has taken to attempt to resolve the dispute – this is sometimes called “self-resolution”
  - d. satisfy the referee that there is a legal basis for each outcome sought. In doing so, the applicant must explain how the issue in dispute relates to a breach of the legislation or the registered by-laws for the body corporate, or to the exercise of rights and powers under the legislation or by-laws; and
  - e. set out the relevant history or background to the dispute including, where appropriate, a chronology of the events and circumstances leading up to the application being submitted. Consider questions relating to who, what, when, where, why and how of each circumstance.
22. If multiple orders are sought, separate grounds should be set out in respect of each order. The grounds for each order should be easily identifiable, either with a clear heading or otherwise numbered to correspond with the numbering of the outcomes.
23. An applicant should also include duplicates (not original copies) of documents supporting their case, for example:
- a. full copies of the minutes of committee and general meetings
  - b. the full notice for general meetings
  - c. relevant correspondence
  - d. witness statements or statutory declarations
  - e. quotes, invoices, receipts, calculations, financial statements or other relevant financial documentation
  - f. contracts and agreements
  - g. photographs, plans, sketches and diagrams
  - h. reports from suitably experienced or qualified persons (for example, a qualified builder).
24. Each document should be numbered and referenced in the statement of grounds. If there are more than a few supporting documents, provide a schedule listing and describing them.
25. The statement of grounds should clearly explain the relevance of each document and, for a large document, its relevant parts. A party should not assume that all documents will be read in their entirety simply because they are provided, especially where the documents are numerous, complex or large.

### Amending or withdrawing and application

26. An applicant can request to amend their application or provide additional information at any time before the referee has decided the application.
27. The applicant must serve every party who received notice of the application with a copy of the amendment, at the applicant’s expense, and those other parties will be entitled to make submissions on the amendment.



28. An applicant may withdraw an application in writing at any time before a final order is made. Once an application is withdrawn, the referee will take no further action in relation to the application.

### Privacy and confidentiality

29. The referee is required to disclose certain information to other persons in accordance with the BUGT Act. Please refer to the [BUGTA Privacy Statement](#) for further information.

---

Version 1

Effective 1 November 2023

*The material presented in this publication is distributed by the State of Queensland for general information only, it is not legal advice. The State of Queensland reserves the right to change and update the material without notice. The State of Queensland makes all reasonable efforts to ensure the material presented in this publication is current, accurate and complete. The State of Queensland makes no warranties that the material in this publication is free from infection by computer viruses or other forms of contamination.*

*To the extent permitted by law, the State of Queensland makes no statement, representation or warranty whether expressed or implied regarding the quality, accuracy, context regarding the material presented in this publication. The State of Queensland disclaims all responsibility and liability (including liability in negligence) for all expenses, losses, damages and costs incurred as a result of the information being inaccurate or incomplete in any way and for any reason. © State of Queensland (Department of Justice and Attorney-General) 2023*



Queensland  
Government