

Referee Guideline 4

Awarding costs of an application

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. The parties to an application for dispute resolution by a referee's order are generally required to meet their own costs associated with the application. That includes the application fee and any legal or other costs incurred in making or responding to an application.
2. A referee does not have power to award costs of an application against a party simply because they were the unsuccessful party.
3. However, pursuant to section 94C of the BUGT Act, if a referee dismisses an application because it is found to be frivolous, vexatious, misconceived or without substance, the referee may order the applicant to compensate the respondent, the body corporate or an affected person for loss resulting from the application (such as reasonably incurred expenses for legal advice).
4. The referee's decision is entirely discretionary, and compensatory costs will not be awarded every time an application is dismissed. In deciding to award compensatory costs, the referee may have regard to previous applications made by the applicant.
5. The total amount of compensation awarded cannot be more than \$2,000.

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