

BCCM Fact Sheet | Smoking in bodies corporate

The *Body Corporate and Community Management Act 1997* (BCCM Act) provides protections for residents of community titles schemes from second-hand smoke. The Act supports the aim of Queensland's smoking laws, which seek to improve health by creating a culture that reduces exposure to tobacco and other smoking products and second-hand smoke.

Given the typical proximity of lots within community titles schemes, second-hand smoke drift from tobacco and other smoking products can become an issue of concern. Smoke from neighbouring lots can easily penetrate other lots or the common property causing a nuisance and or hazard to other residents within the scheme, particularly in terms of the impacts of exposure and odour.

When addressing smoking-related issues within a community titles scheme, two things should be considered:

- **Existence of a smoking by-law:** Check if your scheme has established a smoking by-law. A by-law can regulate smoking activities within the scheme and can include designated smoking areas or restrictions on smoking in certain areas. If no by-law about smoking already exists the body corporate may consider making one. More information about [making by-laws](#) can be found on our website.
- **Nuisance or hazard:** The BCCM Act provides the ability to address smoking-related nuisance and hazards within schemes in the absence of specific smoking by-laws.

Smoke and smoking devices includes a variety of products, including traditional cigarettes, e-cigarettes, and vaporizers.

Smoking by-laws

A by-law may prohibit or restrict the use of smoking products on all or part of:

- the common property (except for indoor common property areas subject to exclusive use)
- an outdoor area that is part of a lot
- an outdoor area that is part of an exclusive use area.

Outdoor areas include balconies, courtyards, patios, and verandas.

Even if the by-laws do not expressly mention smoking, it may be that your body corporate has a by-law preventing nuisance or hazardous behaviour.

By-laws are unique to each body corporate. Your scheme's by-laws are contained in a document called the community management statement (CMS). This document is available from [Titles Queensland](#).

Enforcing by-laws

If a by-law is being breached, the [by-law enforcement](#) process can be followed as outlined within [Practice Direction 6](#).



Nuisance and hazard provisions

[Section 167](#) of the BCCM Act states that an occupier of a lot must not cause a nuisance, hazard, or interfere unreasonably with the use and enjoyment of the property by others. The occupier should not allow their invitees to either.

If an occupier or their invitee regularly exposes other owners, occupiers or their invitees to smoke in another lot or on the common property, they may be in breach of section 167 of the BCCM Act.

Enforcing section 167 of the BCCM Act

If you believe someone is breaching section 167 of the BCCM Act, you must first attempt internal dispute resolution, or self-resolution as outlined within [Practice Direction 23](#). This may include writing to them and advising them about the impact of the smoke and asking them to stop.

If your attempts at self-resolution are unsuccessful, you can apply for [conciliation for body corporate disputes](#). The complete dispute resolution process is outlined within [Common Ground Issue 42](#).

Further information

The Office of the Commissioner for Body Corporate and Community Management (BCCM office) provides information on the *Body Corporate and Community Management Act 1997* (BCCM Act). General information about most body corporate topics can be found on our website at www.qld.gov.au/bodycorporate, including information about [enforcing by-laws](#) and [nuisances and hazards](#).

You can also contact our Information and Community Education Unit on 1800 060 119 or in writing at www.qld.gov.au/bodycorporatequestion.

