

Office of the Commissioner for Body Corporate and Community Management

Practice Direction 7

Conciliation Process

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. The following summarises the process for conciliation applications lodged with the Commissioner's Office.
2. The Commissioner's Office is impartial in relation to all applications lodged. Parties seeking advice on whether they should lodge an application and how to lodge an application should seek appropriately qualified advice (for example, legal advice).

Case management

3. As soon as an application is received by the Commissioner's Office a new file is opened and allocated a unique file reference number.
4. 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.
5. The application is then assessed by the Commissioner or a delegate. Generally, a case manager will act as a delegate of the Commissioner in determining whether the application complies with the legislative requirements and Practice Directions. In particular, the case manager will assess whether the dispute falls within the jurisdiction of the Commissioner's Office.
6. Where necessary, the case manager will contact the applicant to request clarification of the application or additional information or documentation to satisfy the requirements of the legislation and Practice Directions.
7. The Commissioner may reject an application that fails to comply with the requirements of the legislation or a practice direction about internal dispute resolution (refer to *Practice Direction 23: Internal dispute resolution*).

Referral to conciliation

8. Once the Commissioner has decided that the matter should be referred to conciliation, the application is referred to a conciliator.
9. In certain circumstances the Commissioner or a delegate may determine that a dispute is not appropriate for conciliation. This issue is further explained in *Practice Direction 9: Matters not appropriate for conciliation* and further information is provided in *Practice Direction 10: Preparing for conciliation*.



10. If the parties reach agreement at conciliation on any of the issues in dispute, the parties can choose to sign a written agreement documenting the terms of their agreement. It should also be noted that parties can also negotiate a settlement leading up to a scheduled conciliation session.

Ending conciliation

11. At the end of the conciliation process the parties will be issued with a conciliation certificate to inform them that the conciliation process has concluded. A copy of this certificate should be retained as it must be lodged with any future adjudication application about the same dispute.
12. Once the conciliation process has concluded, the conciliator has no further involvement in the dispute or any subsequent adjudication application about the dispute.

After conciliation

13. An applicant may lodge an adjudication application on the same dispute if conciliation was not able to resolve the dispute, providing the applicant has made a reasonable attempt to conciliate.
14. If a respondent does not make a reasonable attempt to conciliate the dispute, an applicant may request that an adjudicator order the respondent to reimburse the applicant for the conciliation and adjudication application fees.



Chris Irons
COMMISSIONER

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