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Adjudication for body corporate disputes

Adjudication is a more formal process than conciliation. An adjudicator makes a decision after considering the application and written submissions from all those affected by the dispute.

You can only make an adjudication application if you (as the applicant) have tried [self resolution](https://www.qld.gov.au/law/housing-and-neighbours/body-corporate/disputes/self-resolution) (<https://www.qld.gov.au/law/housing-and-neighbours/body-corporate/disputes/self-resolution>) and in most cases attempted [conciliation](https://www.qld.gov.au/law/housing-and-neighbours/body-corporate/disputes/conciliation) (<https://www.qld.gov.au/law/housing-and-neighbours/body-corporate/disputes/conciliation>) with the Office of the Commissioner for Body Corporate and Community Management (the BCCM office).

Apply for adjudication

Complete the adjudication application form (<https://www.qld.gov.au/law/housing-and-neighbours/body-corporate/disputes/adjudication-application>)

This online form creates a completed application that you can print and send to the BCCM office.

Or you can download the [adjudication application form](https://publications.qld.gov.au/dataset/adjudication-application/resource/6e92b912-06e4-4a9b-a719-49a4ca1956f2) (<https://publications.qld.gov.au/dataset/adjudication-application/resource/6e92b912-06e4-4a9b-a719-49a4ca1956f2>).

Call us on [1800 060 119](tel:1800060119) (freecall) (<tel:1800060119>), if you cannot download the form.

There are [fees](https://www.qld.gov.au/law/housing-and-neighbours/body-corporate/disputes/fees) (<https://www.qld.gov.au/law/housing-and-neighbours/body-corporate/disputes/fees>) for adjudication applications.

You can send your completed form and all attachments to us by:

- post to GPO Box 1049, Brisbane QLD 4001
- email to bccm@justice.qld.gov.au (<mailto:bccm@justice.qld.gov.au>).
- fax to (07) 3013 5417

Please email us when communicating about new or current applications. See [Practice Direction 3: Communication and document management](https://publications.qld.gov.au/dataset/practice-directions-bccm/resource/6db44017-7886-4877-9c22-c78c652913c6) (<https://publications.qld.gov.au/dataset/practice-directions-bccm/resource/6db44017-7886-4877-9c22-c78c652913c6>), for more details about this issue.

What disputes can be decided by adjudication

Adjudicators determine disputes that involve claimed contraventions (breaches) of:

- the [Body Corporate and Community Management Act 1997](https://www.legislation.qld.gov.au/view/html/inforce/current/act-1997-028) (<https://www.legislation.qld.gov.au/view/html/inforce/current/act-1997-028>)
- a community management statement for a community titles scheme.

Disputes an adjudicator cannot decide

An adjudicator cannot:

- resolve questions about title of land
- decide a dispute about a debt owed to the body corporate.

Decisions about these certain types of complex disputes can only be made by:

- a specialist adjudicator (<https://publications.qld.gov.au/dataset/practice-directions-bccm/resource/094e2904-4afa-4ef8-af24-6ce328bde703>).

or

- the Queensland Civil and Administrative Tribunal (<http://www.qcat.qld.gov.au/>).

For more information see:

- s229 of the Act (<https://www.legislation.qld.gov.au/view/html/inforce/current/act-1997-028#sec.229>)
- complex disputes (<https://publications.qld.gov.au/dataset/practice-directions-bccm/resource/a8b021e5-0024-43cf-a754-ff37f6bdeece>).
- debt disputes (<https://publications.qld.gov.au/dataset/practice-directions-bccm/resource/906408a6-1f5a-4469-87c2-6da9de53a446>).

The adjudication process

Applying

To apply for adjudication, you must complete the adjudication application form.

You will be asked for more details if your application is not complete, is unclear, or does not meet the requirements of the legislation. Your application could be rejected if you do not provide all the information requested.

You can amend or add to your application after it is lodged. If your amendment is not received before submissions have been sought from others, conditions may be imposed (e.g. you may have to send the amendments to everyone who has been asked to make a submission).

Submissions

The respondent (i.e. the other person in the dispute) and others affected by the dispute will usually be asked to make a written submission.

If invited to make a submission, it is an individual's choice if he or she wants to do so. However, if you choose not to make a submission you need to be aware that this may limit your ability to appeal any order made.

Those invited must make any submissions within a specified timeframe. In some cases, the Commissioner may extend the time limit.

The body corporate, a committee member or anyone who has made a submission may ask for a copy of the application and all submissions. The BCCM Office must charge a legislative fee (<https://www.qld.gov.au/law/housing-and-neighbours/body-corporate/disputes/fees>) for the copies and it must be paid by whoever requests them.

Right of reply

You (the applicant) can make a written reply to the submissions. You are the only person who has a right of reply.

Your reply must not bring up any new issues. If it does, your reply might have to be circulated to the others involved for further submissions. This could delay the dispute.

Ways to resolve the dispute

Once the reply period has ended, the Commissioner will decide the best way to resolve the dispute. The most common options include:

- adjudication
- conciliation (<https://www.qld.gov.au/law/housing-and-neighbours/body-corporate/disputes/conciliation>)

What the adjudicator considers

When considering a dispute, an adjudicator has the power to:

- request information (e.g. expert reports)
- interview the people involved in the dispute (and others if necessary)
- obtain or inspect body corporate records
- inspect lots, or common property in a community titles scheme.

The adjudicator will make a formal order deciding the dispute after considering:

- the application
- all submissions
- the reply to submissions
- any further information the adjudicator has asked for.

Adjudicator's orders

An adjudicator must decide whether an order should be made. An adjudicator can make an order that is 'just and equitable' to resolve the dispute.

For example:

- declare a committee or general meeting, or a motion at a meeting, void
- declare a committee or general meeting motion to have passed
- require a general meeting to be held to deal with specific business
- declare a by-law invalid
- require the body corporate or an owner to undertake maintenance
- require a body corporate to provide access to body corporate records.

An adjudicator can also appoint an administrator with the authority to do the job of a body corporate or committee.

An adjudicator can dismiss an application if it is frivolous, vexatious or without substance. You (the applicant) may have to pay up to \$2,000 in costs if your application is dismissed for one of these reasons.

An adjudicator can also dismiss an application for other reasons such as:

- if they don't have the authority to decide the dispute
- if the dispute should be decided by a court or tribunal.

Withdrawing an application

If you decide you don't want to proceed with your application—because the dispute is resolved or for any other reason—you can ask in writing to withdraw the application.

The application fee will not be refunded.

Enforcing an adjudicator's order

The Magistrates Court can [enforce the adjudicator's order](https://www.qld.gov.au/law/housing-and-neighbours/body-corporate/disputes/adjudication/enforce) (<https://www.qld.gov.au/law/housing-and-neighbours/body-corporate/disputes/adjudication/enforce>).

The court can impose fines of up to \$53,380 if you do not comply with an order.

Appealing against an order

You can appeal an adjudicator's order with the [Queensland Civil and Administrative Tribunal](http://www.qcat.qld.gov.au/) (<http://www.qcat.qld.gov.au/>) as per section 289 of the [Body Corporate and Community Management Act 1997](https://www.legislation.qld.gov.au/view/html/inforce/current/act-1997-028) (<https://www.legislation.qld.gov.au/view/html/inforce/current/act-1997-028>).

You must start the appeal within 6 weeks from the date of the adjudicator's order (unless a later start is allowed by the court).

Specialist adjudicators

You can ask for a specialist adjudicator (<https://publications.qld.gov.au/dataset/practice-directions-bccm/resource/094e2904-4afa-4ef8-af24-6ce328bde703>) to be appointed to decide a dispute. This can be useful if your dispute is complex or requires expert knowledge.

You and the other people in the dispute must agree on both appointing a specialist adjudicator and who that person will be. You must also agree on how you will pay the costs.

Privacy

Please be aware that we will make your application available to others in the dispute. Some information in your application will also be made public if the adjudicator makes an order.

Read more about privacy and access to personal information (<https://publications.qld.gov.au/dataset/adjudication-application>).

Last updated: 1 July 2018



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Further questions?

If you have further body corporate questions you can submit an enquiry. (<https://www.qld.gov.au/law/housing-and-neighbours/body-corporate/legislation-and-bccm/services/enquire>) or phone the information service on 1800 060 119 (freecall) (<tel:1800060119>).

We cannot give legal advice or rulings—we can only give you general information on body corporate legislation.

Apply for adjudication

Complete the adjudication application (<https://www.qld.gov.au/law/housing-and-neighbours/body-corporate/disputes/adjudication/application>), online and then lodge it by post, fax or email.

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