

DEALING WITH GRIEVANCES

The *Owners Corporations Act 2006* sets out a process to help your owners corporation deal with grievances. This process has three steps:

- internal dispute resolution
- conciliation through Consumer Affairs Victoria, and
- applications to the Victorian Civil and Administrative Tribunal.

Communication is often the best way to prevent disputes and your owners corporation should encourage neighbours to talk about their concerns to resolve disputes.

Internal dispute resolution

Your owners corporation must have procedures to help its members and people living in the property deal with grievances without resorting to legal action. It should set out:

- information about who to contact if there is an issue or concern
- rules detailing the grievance procedure
- directions about where to get information
- how to record the issue or the breach of rules
- how to notify your owners corporation committee or manager of a problem
- how to raise an issue at an owners corporation or committee meeting
- formal complaint procedures, and
- how to nominate a third party to help a dispute.

Communication

Your owners corporation should encourage communication between neighbours. It must also make a policy about day-to-day communication between a lot owner and the owners corporation. The policy should be part of the rules and include:

- how and when the chairperson, secretary or the manager can be contacted, and
- what to do if there is an emergency.

This policy should be given to all new lot owners or be displayed on a notice board. All owners corporations must keep a letterbox and/or a sign displaying its contact details. A sample policy, *Communicating with your owners corporation*, is provided at the end of this fact sheet.

Rules for grievance procedures

Your owners corporation can make its own rules to deal with grievances or adopt the rules set out in the *Owners Corporations Regulations 2007*. If your owners corporation makes its own rules for grievances then those rules must be recorded at Land Victoria to be enforceable.

For example, your owners corporation may make a rule that states: "if you wish to raise an issue, you can make a written request for a meeting of the owners corporation or its committee". This meeting would give people affected an opportunity to comment and the owners corporation or its committee may be able to make a resolution on the matter.

Your owners corporation must follow its internal procedure before asking Consumer Affairs Victoria to conciliate or applying to the Victorian Civil and Administrative Tribunal.

Communicate with neighbours

Tell the other person about your concern. Simply talking to your neighbour about the issue may lead to a solution.

You should notify your owners corporation committee or manager of concerns about the welfare and safety of people and the building. You could also make a written request for the matter to be discussed at the next meeting of the owners corporation or committee.

Keep records

Your owners corporation will ask for a written record of events when you make a formal complaint. A written record is also required if you take the complaint to Consumer Affairs Victoria or the Victorian Civil and Administrative Tribunal.

Any complaints and any action taken are required to be reported to the owners corporation at the annual general meeting and are records that are required to be kept for seven years.

Making a formal complaint

If you want to make a formal complaint about a lot owner, an occupier or an owners corporation manager about an alleged breach of an obligation under the *Owners Corporations Act 2006* or Owners Corporations Regulations 2007 or the rules, it must be in writing to the owners corporation in an approved form. The approved form "Owners Corporation Complaint" is available on the Consumer Affairs Victoria Website: www.consumer.vic.gov.au.

If the owners corporation decides to take no action, it must provide written reasons. If the owners corporation does take action, it must give notice to the person subject to the complaint. The owners corporation must also give a copy of the notice to the lot owner (if the lot owner is not the subject of the complaint). The notice must be in writing in the approved form, and the breach must be rectified within 28 days of the date of the notice. The approved form "Notice to Rectify Breach" is available on the Consumer Affairs Victoria Website: www.consumer.vic.gov.au.

If the problem is not resolved

If the problem is not resolved within 28 days, the owners corporation can extend the deadline for action. The owners corporation can also issue a final notice, in writing in the approved form. The approved form "Final Notice to Rectify Breach" is available on the Consumer Affairs Victoria Website: www.consumer.vic.gov.au.

The final notice should state that:

- the individual has 28 days from the date of the notice to comply, and
- if the breach is not rectified within 28 days, the owners corporation may take the matter to the Victorian Civil and Administrative Tribunal.

Your owners corporation must first try to resolve the matter through an internal grievance procedure before applying to the Victorian Civil and Administrative Tribunal.

Complaints to Consumer Affairs Victoria

You do not have to use the owners corporation grievance procedure if you are a lot owner, occupier or manager. You can make your complaint to Consumer Affairs Victoria. However, Consumer Affairs Victoria may suggest that you do use the internal dispute resolution.

Consumer Affairs Victoria will determine if your complaint can be conciliated. Conciliation involves negotiation between the parties to bring them to an agreed resolution. Consumer Affairs Victoria's

conciliation service gives parties a chance to resolve the dispute and avoids proceeding to the Victorian Civil and Administrative Tribunal.

Overview

An diagram of the dispute resolution process set out in the *Owners Corporations Act 2006* is provided at the end of this fact sheet.

Relevant forms and pro forma documents

The following forms and pro forma documents can be downloaded from the Consumer Affairs Victoria website and are also available in printed copies of the fact sheets. Approved and prescribed forms must be used for particular processes undertaken by or in an owners corporation and their text cannot be changed. Pro forma documents are provided for information and assistance, do not have to be used by your owners corporation, and you are free to amend them to make them more useful for your owners corporation.

Pro forma documents:

- Rules for grievance and complaints procedures
- Issues log sheet
- Complaints/dispute resolution report to AGM
- Communicating with your owners corporation

Approved forms

- Complaint form
- Notice to Rectify Breach
- Final Notice to Rectify Breach

Relevant legislation and documents

Copies of the following documents can help to ensure your owners corporation runs smoothly:

- *Owners Corporations Act 2006*
- Owners Corporations Regulations 2007
- *Subdivision Act 1988*
- Subdivision (Procedures) Regulations 2000
- Rules of the owners corporation
- Plan of Subdivision

Hard copies of the legislation can be purchased from Information Victoria:

505 Little Collins Street, Melbourne 3000

1300 366 356, www.information.vic.gov.au

Online copies of the legislation can be downloaded from:

www.legislation.vic.gov.au (Victorian Law Today).

Copies of a plan of subdivision and an owners corporation's rules can be obtained from Land Victoria:
570 Bourke Street, Melbourne 3000
03 8636 2010, www.land.vic.gov.au

Further reading from Consumer Affairs Victoria

- Owning, managing and living in a unit or apartment: Guide to owners corporations

Fact sheets:

- Activating your owners corporation
- Annual general meetings
- Chairperson
- Committees
- Financial management
- Insurance
- Maintenance and maintenance plans
- Managers
- Meeting procedures
- Multiple owners corporations
- Owners corporation register
- Owners corporation certificate
- Prescribed owners corporations
- Purchasing an apartment checklist
- Records
- Rules
- Secretary
- Two-lot subdivisions
- Voting and ballot guidelines

Ring Consumer Affairs Victoria on 1300 55 81 81 or download the publications from www.consumer.vic.gov.au/ownerscorp.

More information**Victorian Consumer & Business Centre**

113 Exhibition Street

Melbourne 3000

Telephone: 1300 55 81 81

Website www.consumer.vic.gov.au

Regional Offices

Consumer Affairs also has regional offices located in Ballarat, Bendigo, Geelong, Morwell, Mildura, Wangaratta and Warrnambool together with a mobile outreach service that regularly visits rural communities. To find details on the office or mobile service nearest you, ring 1300 55 81 81 or go to the Consumer Affairs website on www.consumer.vic.gov.au and click on the Contact Us link.

Because this publication avoids the use of legal language, information about the law may have been summarised or expressed in general statements. This information should not be relied upon as a substitute for professional legal advice or reference to the actual legislation.

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Overview of the dispute resolution process

