

The role of the committee

Understanding how a body corporate committee works can be daunting. The following outlines the role of the committee including day to day management requirements.

References to the *Body Corporate and Community Management Act 1997* (the BCCM Act) and the *Body Corporate and Community Management (Standard Module) Regulation 2008* (the Standard Module) are included. The legislation should be consulted as the primary reference.

Is it necessary to have a committee?

Yes. The body corporate must elect a committee at each annual general meeting. Once elected, the committee is tasked with the administrative and day to day requirements of the body corporate. The committee acts on behalf of the body corporate and puts in place the lawful decisions of the body corporate (the BCCM Act sections 100 and 101).

For further information on the composition and election of a committee refer to the *Forming a body corporate committee* and *Body corporate elections* factsheets.

How are committee meetings held?

There is no minimum or maximum number of committee meetings that can be held. The secretary usually calls a committee meeting and the committee may meet as frequently as it needs (Standard Module section 44).

Meeting notice

Seven days written notice of a meeting must be given to each committee member. However, the committee may reduce the period of notice to at least two days if all voting members have agreed, either at the last meeting or in writing.

Each lot owner also receives a notice and meeting agenda unless they have requested otherwise (Standard Module section 45).

Meeting location

The committee may decide where to hold a meeting however it must not be held more than 15 kilometres from the scheme land if half the number required for a quorum object in writing to the secretary (Standard Module section 46).

Does there have to be an agenda?

The notice of the meeting must include an agenda stating the issues to be considered. The committee may also consider other issues not included on the agenda at the time of the meeting. The agenda must include a motion to confirm the minutes of the last meeting as well as a motion to confirm any resolutions passed outside of a committee meeting (Standard Module section 47).

Who chairs a meeting?

The chairperson must chair all committee meetings. If the chairperson is absent, another member may be chosen to chair the meeting by the voting members who are present (Standard Module section 48).

What is a quorum?

A quorum is the minimum number of members that must be present in order to conduct a meeting. For a committee meeting a quorum is at least half the voting members of the committee.

Examples

1. If there are six voting members of the committee, a quorum is three.
2. If there are seven voting members of the committee, a quorum is four (Standard Module section 49).

If the secretary or the chairperson receives a written request by enough committee members to form a quorum, the meeting must be held within 21 days.

Who can attend?

Lot owners who are not committee members have the right to attend a committee meeting. The lot owner must give the secretary at least 24 hours written notice of their intention to attend. However, a lot owner's attendance may be limited and he or she may be asked to leave by a majority decision of the committee members (Standard Module section 51).

Who can vote?

Each voting member is entitled to one vote on any matter to be decided. If an executive member holds more than one

executive position, he or she is still entitled to only one vote.

A motion is passed at a meeting of the committee if a majority of voting members present (either personally or by proxy, and entitled to vote) are in favour of the motion (Standard Module section 52).

Proxies

A voting member of the committee may appoint another voting member of the committee as their proxy. A voting member of the committee can not hold more than one proxy.

The secretary or the treasurer may only appoint a proxy with the committee's approval.

A proxy is effective for only one committee meeting and lapses after the meeting (Standard Module sections 100 and 101).

Can members vote outside a meeting?

The committee may vote on matters without formally holding a meeting. This is often referred to as a 'flying minute' and may be appropriate, for example, if urgent work is required within the scheme. Decisions may be made in this manner if all committee members are given written notice of the motion and a majority of the voting members of the committee gives written agreement to the motion.

In an emergency, the notice of the motion may be given to as many committee members as is practicable to contact. The notice (or the ensuing committee member's agreement) does not need to be in writing and can be given orally or by some other form of communication.

Any motion voted on under these provisions must be confirmed at the next committee meeting (Standard Module section 54).

Do committees need meeting minutes?

The committee must take full and accurate meeting minutes. The secretary must provide a copy of the minutes, within 21 days of the meeting, to each committee member and lot owner (unless the owner has requested otherwise). A copy of the record of any resolution voted on outside a meeting must also be provided (Standard Module section 55).

How are resolutions carried out?

A resolution is a formal expression by a meeting, agreed to by a vote. Even though a committee may have passed a resolution, it can only be carried out if no notice of opposition is received.

A notice of opposition is a document signed by or for the owners of at least half the lots in the scheme which opposes the resolution of the committee. The notice of opposition must be given to the secretary within seven days after receiving a copy of the minutes of the meeting at which the resolution was passed. If the resolution was passed outside a

committee meeting, a copy of the resolution must be provided.

However, there are exceptions:

- in an emergency (for example to repair a burst water pipe on the common property), the committee may carry out the resolution so long as the cost of the repairs is within the relevant limit for committee spending or an adjudicator has authorised the committee to do so
- if the body corporate has, by ordinary resolution, authorised the committee to act
- a resolution that authorises a committee member to carry out a stated function of the body corporate (e.g. mowing the common property lawns) provided:
 - the cost of carrying out the function (e.g. purchase of mower fuel) is not greater than either \$200 or \$5 multiplied by the number of lots in the scheme, or
 - it involves a decision of a routine, administrative nature.

(Standard Module section 56 and 57)

Note: the Notice of Opposition does not apply to schemes under the Accommodation, Commercial or Small Schemes regulation modules.

How can committees spend money?

Committee spending is limited and money must be available in the budget before the committee can spend. If sufficient funds are not available, the committee may need to consider calling a general meeting to amend the budget or raise a special levy.

Limit of spending

The 'relevant limit for committee spending' is defined in the Dictionary to the Standard Module as an amount worked out by multiplying the number of lots included in the scheme by \$200 or another amount previously set by an ordinary resolution of the body corporate. For example, for a body corporate composed of six lots, the relevant limit is \$1200 (\$200 x 6) unless the body corporate has set another amount.

The committee cannot break down a single project into smaller components in order to bring the project within the limit of committee spending (Standard Module section 151).

Example:

The committee for a scheme composed of 25 lots is limited to spending \$5000 (25 x \$200). The committee decide to renovate the main foyer and has obtained quotes. The costs are tiles — \$2800, light fittings — \$3000, paint — \$1200. Even though the individual quotes are below the committee's limit, the committee cannot carry out any of the refurbishment projects, as the whole project is well above the limit.

Quotes for major spending by the committee

Section 151 provides the relevant limit for committee spending can be set by the body corporate. The body corporate may set the relevant limit for committee spending to more than the relevant limit for major spending by the scheme (Standard Module Chapter 12 Dictionary). If the committee is considering a motion to carry out work that is more than the relevant limit for major spending for the scheme, the committee must obtain and consider at least two quotations for carrying out the work.

What restrictions apply to the committee?

As well as limiting or restricting the spending of the committee, other issues including the committee's decision making are also restricted.

The committee cannot:

- fix or change a levy contribution. These decisions are reserved for the body corporate at a general meeting. However, an exception exists in that the committee may issue an interim levy to cover any shortfall in the budget between the end of the body corporate's financial year and the time of the annual general meeting (Standard Module sections 141(3) and (4))
- change the rights, privileges or obligations of owners, e.g. changing the by-laws, or
- make a decision that the body corporate must make either by ordinary resolution, special resolution, resolution without dissent or majority resolution.

The code of conduct for committee voting members

The Code in Schedule 1A of the BCCM Act applies to each voting member of the committee.

The code sets out basic principals and standards expected of each voting member of the committee.

The code requires the voting members to:

- have a commitment to acquiring an understanding of the BCCM Act and the code
- act honestly and fairly and with confidentiality
- act in the body corporate's best interests
- comply with the BCCM Act and the Code
- not cause a nuisance
- disclose a conflict of interest.

Dealing with a breach of the code

The body corporate may decide by ordinary resolution at a general meeting to give the voting committee member a written notice if it believes the member has breached a provision of the code.

Among other things the notice must include:

- sufficient details of the breach (limited to 600 words)
- a statement that the member may give any other member of the body corporate a written reply (limited to 600 words) within 21 days
- a statement that the body corporate will pay the reasonable photocopy expenses and postal charges incurred by the committee member
- a statement that the body corporate is to consider a motion to remove the committee member at the next general meeting.

A committee member who receives this notice must be given the opportunity to provide a written response (limited to 600 words) within 21 days after being given the notice.

If a 'breach' notice is given the body corporate must include on the agenda of the next general meeting a motion to remove the committee member from office.

(Standard Module section 34 and 35)

The Office of the Commissioner for Body Corporate and Community Management (BCCM Office)

Phone (freecall): 1800 060 119

Email: bccm@justice.qld.gov.au

Website: www.justice.qld.gov.au/bccm

Street address: Brisbane Magistrate's Court
Level 4, 363 George Street, Brisbane

Postal address: GPO Box 1049, Brisbane Qld 4001

Copies of the *Body Corporate and Community Management Act 1997*, the regulation modules, and any amendments can be accessed for free via the Office of the Parliamentary Council by visiting:

www.legislation.qld.gov.au/Acts_SLs/Acts_SL.htm

Copies can be purchased online by visiting

www.bookshop.qld.gov.au, or by contacting SDS Customer Service by phoning (07) 3883 8700 or 1800 801 123.

Disclaimer

The laws referred to in this guide are complex and various qualifications may apply in different circumstances. The information in this factsheet does not constitute legal advice. You are encouraged to obtain independent legal or financial advice if you are unsure of how these laws apply to your situation.

© The State of Queensland
(Department of Justice and Attorney-General) 2008

Copyright protects this publication. The state of Queensland acting through the Department of Justice and Attorney-General has no objection to this material being reproduced, but asserts its right to be recognised as the author of this original material and the right to have its material remain unaltered.