

Dispute Resolution – An Overview

This guidance note is for use by Community Asset Committees managing council assets.

Introduction

As a member of a committee of management, you are performing a valuable service to your local community, and to the wider Victorian community.

As part of your role, you make collective decisions with the other members of the committee.

If dispute arises between members which unduly effects the working of the committee, this needs to be resolved as quickly as possible in the public interest (the best interests of managing the reserve for the benefit of the community).

Dispute resolution policy

Your committee is expected to have a *Dispute Resolution* policy. Council can assist in the development of the policy or alternatively you can visit <https://www.communitydirectors.com.au/icda/> which provides information for community committees.

Definition of a “dispute”

A difference of opinion between committee members in relation to a proposed decision (e.g. whether to build a new shelter shed or repair the old one) is *not* a ‘dispute’. It is a normal difference of views which the committee talks through in a considered, courteous, and constructive manner before voting to make a decision, in accordance with the committee’s policy on *Meetings and Decisions*.

A ‘dispute’ is where:

- two or more committee members have difficulty working together (e.g. because of ideological differences or a conflict of personalities); and
- it is unduly affecting the ability of some or all of the committee to perform their duties in an effective and efficient manner.

Duty to act in good faith

Disputes should be avoided where possible. If a dispute arises:

- the members in dispute (the parties) have a duty to act in **good faith** to resolve the dispute as soon as possible in the public interest;
- the chair actively guides the parties towards resolution of the dispute; and
- the other committee members support this process.

Informal resolution

The members in dispute are required to make a **reasonable, thorough, and conscientious** effort to resolve the dispute on an informal basis, under the guidance of the chair.

Sometimes, the chair will formally notify the committee of the dispute by placing the matter on the agenda of the next committee meeting for noting and/or monitoring. Typically, this would happen if the chair is concerned that the dispute may pose a major risk to the effective management of the reserve. This does not stop the informal resolution process. It just makes the committee officially aware of it, if the chair thinks this is advisable.

Unresolved dispute

If a dispute cannot be resolved informally despite everyone's best efforts, it is placed on the agenda of the next committee meeting. At the meeting, the committee invokes its formal mediation process if it is satisfied that:

- a dispute exists which cannot be resolved on an informal basis; and
- it is in the public interest to do so.

Formal mediation process

If the committee invokes the formal mediation process:

- An independent, suitably qualified mediator is appointed who is acceptable to all the parties.
- If the committee members in dispute cannot agree on a mediator, the [Dispute Settlement Centre of Victoria](#) is asked to organise a mediation using its mediators. The Centre is a free service run by the Department of Justice and Regulation.
- The members in dispute co-operate with the mediator and provide all reasonable assistance. Under the guidance of the chair, they actively work in good faith to resolve the dispute.
- If the dispute is resolved, unless good reason exists otherwise, the outcome is recorded in writing by the mediator and signed by the parties, who each receive a copy and consent to the chair receiving one.
- If the dispute cannot be resolved and is continuing to unduly affect the operation of the committee, Council should be contacted for advice.

Major risk

If at any time the dispute poses a major risk to the effective management of the asset, Council should be notified.

Further information

Information on this topic (e.g. model policy and this guidance note) is available from Council's Website <http://www.colacotway.vic.gov.au/Recreation-tourism/Facilities-venues> .