

Committee Training

August 2014

Capitol
BODY CORPORATE ADMINISTRATION

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Capitol
BODY CORPORATE ADMINISTRATION

Introduction

Welcome

What and who is Capitol Body Corporate Administration

Established 1996

Capitol Directors

Ian D'Arcy, Josephine D'Arcy and Ashley Fox



Introduction

The Capitol Team

- Community Relationship Manager (CRM)
Body Corporate Manager
- All CRMs are supported by a Community Relationship Assistant
- Accounts Team
- Insurance Manager
- Event Coordinator



Introduction

Our Culture at Capitol

Followers of: Fish! Philosophy and Speed of Trust

What we do:

- Agreed services (secretarial and treasury)
- Non Agreed services (maintenance co-ordination)

We proudly support Act for Kids as our chosen charity



Introduction

Where are our offices located?

Brisbane | Gold Coast | Redcliffe

How to contact our team via our website

www.capitolbca.com.au

Standard request forms on our website:

- Maintenance Application
- Air Conditioning Application
- General Improvement Application
- Pet Application
- StrataMax Login Request
- Certificate of Currency Request
- Information Certificate Request
- Information for Disclosure Statement Request
- Change of Roll Details



Introduction

Session topics

Question time at end of seminar

- Recovery of body corporate debts : Court of Appeal agrees with body corporate
Juliette Nairn, OMB Solicitors
- Save \$\$\$ and learn how to reduce your body corporate energy costs
Andrew McNair, Energy Options
- Best practice for committee meetings – we will explain the ins and outs of how to get the best results
Tony McQuillan, Capitol Body Corporate Administration

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Managing Debt in a Body Corporate

omb
solicitors



Juliette Nairn

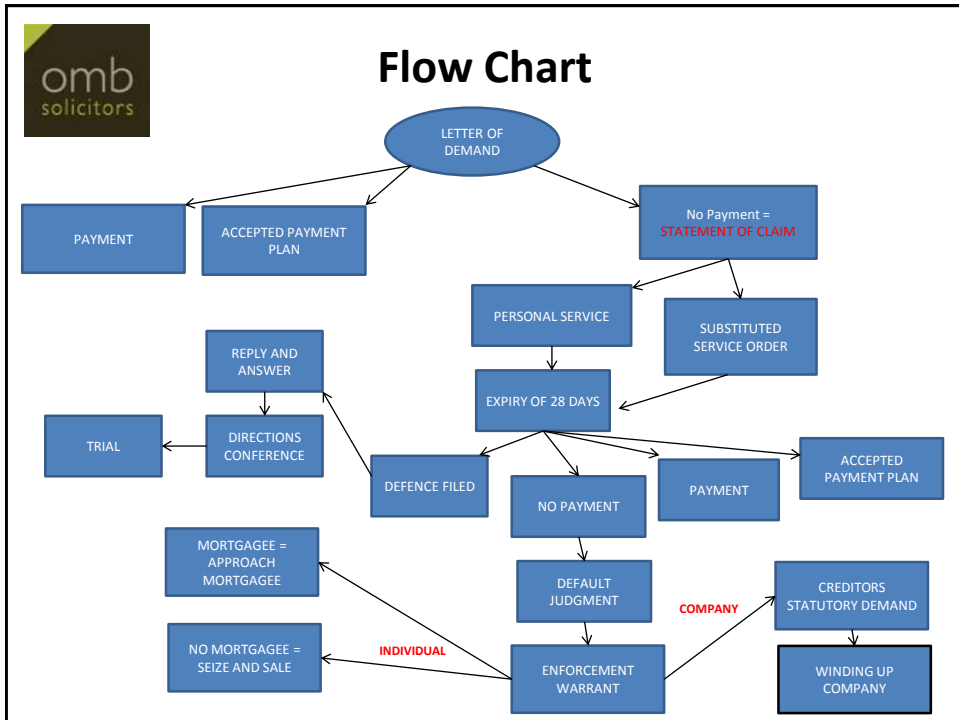
Levy Collection



Agenda

- Importance of levies
- Body Corporate role
- Body Corporate debt
- Non-payment of contributions
- Strategies
- Protections
- Body Corporate for Wave v Westpac – Court of Appeal decision





omb solicitors

Why is it important to recover levies?

BODY CORPORATE AND COMMUNITY MANAGEMENT ACT 1997
Section 94 - Body corporate's general functions

(1) The body corporate for a community titles scheme must—

- (a) administer the common property and body corporate assets for the benefit of the owners of the lots included in the scheme; and
- (b) enforce the community management statement (including any by-laws for the scheme); and
- (c) carry out the other functions given to the body corporate under this Act and the community management statement.

Money is needed to do this!



What must a Body Corporate do?

- Set Administration and Sinking Fund Budgets
 - Hold a valid Annual General Meeting
 - Resolve contributions
 - At least 30 days prior to the contribution being due send to the lot owner at the address recorded on the roll a contribution notice
-



What is a Body Corporate Debt?

Body Corporate and Community Management (Accommodation Module) Regulation 2008

Section 143 - Payment and recovery of body corporate debts

- (1) If a contribution or contribution instalment is not paid by the date for payment, the body corporate may recover each of the following amounts as a debt—
 - (a) the amount of the **contribution** or instalment;
 - (b) any **penalty** for not paying the contribution or instalment;
 - (c) any **costs (recovery costs)** reasonably incurred by the body corporate in recovering the amount.
-

What if the debt is not paid?

Steps for the Body Corporate to take

- Ensure the address for the lot owner is correct
- Attempt to contact lot owner directly
- Internal recovery process such as reminder notices and letters of demand
- Document steps taken



Payment Plan



- Should the Body Corporate accept?
- Considerations
- Reasonableness
 - Will this see the debt cleared in a reasonable time?
- Clarity
- If accepted, make sure it is submitted by the lot owner in writing, is clear and deals with exact details such as the date and amount of each payment, continuing penalty interest and future levies.

What if the debt is not paid?

If all else fails.... what next?

Second levies unpaid? Commence proceedings!

Committee Resolution engaging OMB Solicitors to send a final letter of demand and if the debt still remains outstanding then to commence legal proceedings.



Why commence legal proceedings after second set of levies?

When the debt is relatively low, the chance of recovering it quickly is higher

The higher the debt gets the more unlikely it is that the lot owner will be able to pay it

The higher the debt gets the more likely it will be that the lot owner will attempt to delay the recovery by defending the claim

The longer the delay and the more steps required to recover the debt, incurring more costs

What protections are there?

- Costs reasonably incurred
- Debt attaches to lot
- Mortgagee in possession
- Policy considerations



WESTPAC BANKING CORPORATION v BODY CORPORATE FOR THE WAVE COMMUNITY TITLE SCHEME 36237



- Lengthy proceedings
- Payment plans
- General Meeting – all owners
- Interpretation of section 143 of Body Corporate and Community Management (Accommodation Module) Regulation 2008 - 'Body Corporate Debt'
- Anomaly



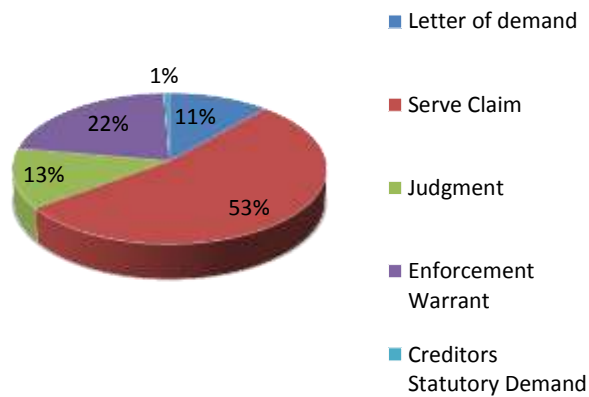
What has experience taught us?

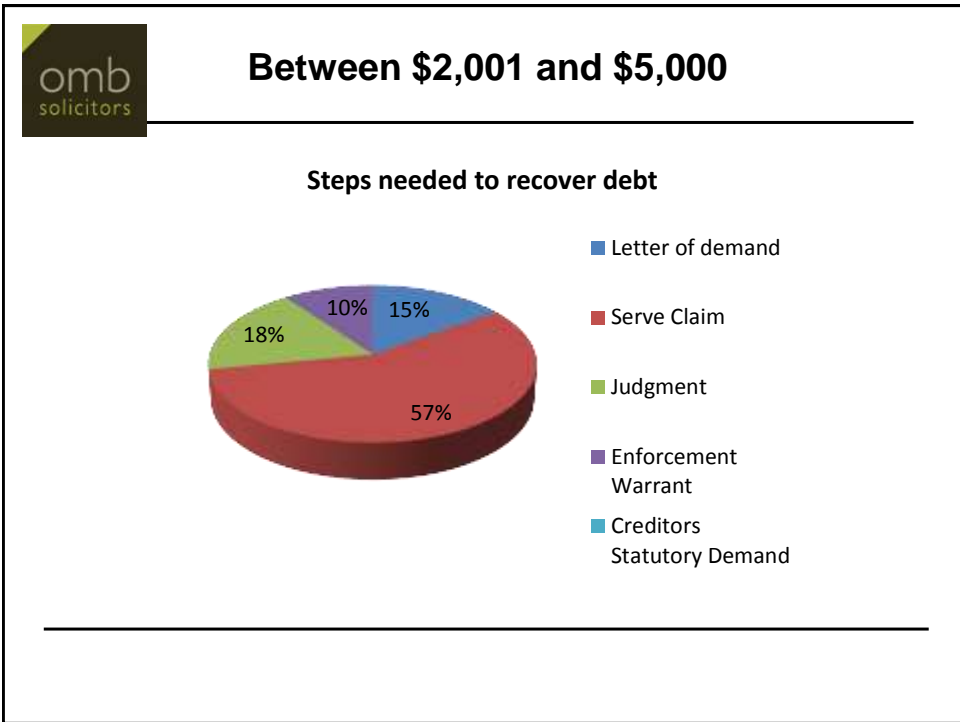
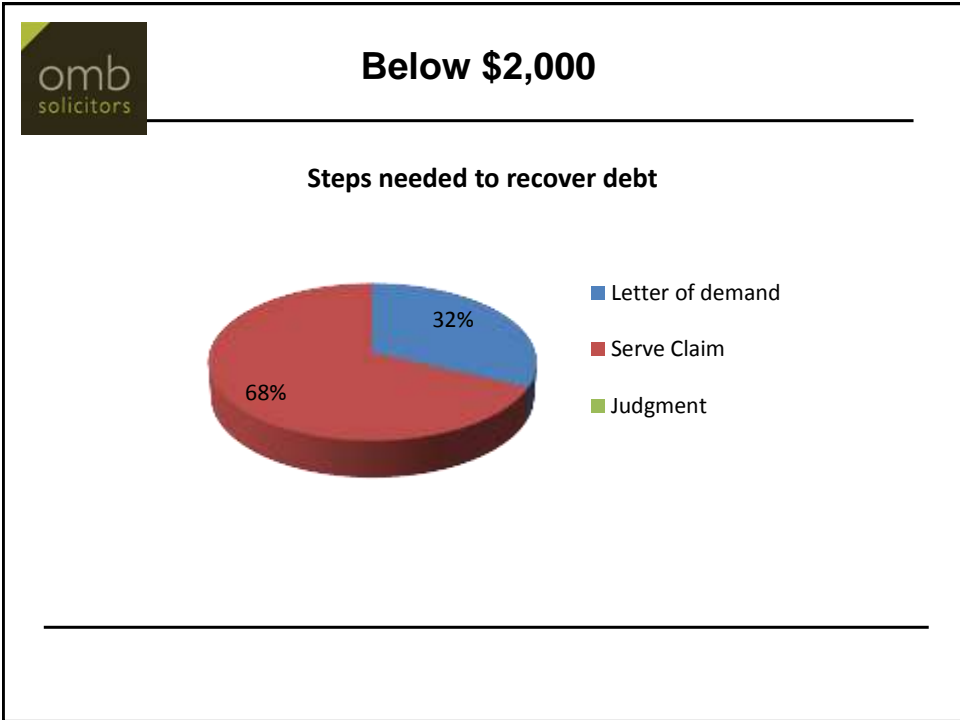
- Apply a consistent policy to all lot owners
- The importance of keeping good records
- If you are going to agree to a payment plan, make sure it is well documented and favourable to the Body Corporate
- If you say you are going to do something.... do it
- Start recovering the debt early
- A long term, strict approach, applied evenly to all lot owners, will have the long term effect of reducing debt
- Times are difficult, money is tight, the Body Corporate has significant protections, use those protections to ensure the Body Corporate does not suffer



Average

Steps needed to recover debt

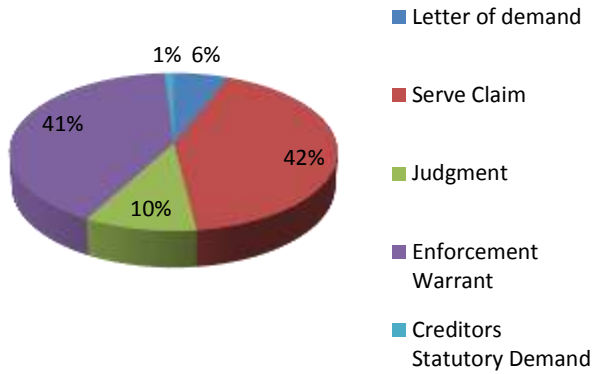




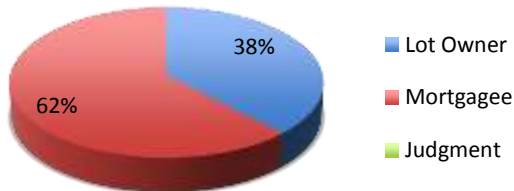


Above \$5,000

Steps needed to recover debt



Where is the money coming from?





O'Keefe Mahoney Bennett Solicitors

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Energy Savings for Bodies Corporate



Introduction

- History
- Electricity cost increase
- Future impacts on energy prices
- Opportunities to reduce energy costs



Where have we come from?

- Regulated tariffs
- Deregulation begins in 1998
- Total deregulation (full contestability) in 2007
- Now have the choice of retailer
- Potential savings from a number of arrangements
- Increases in regulated tariffs from 2007



What Are We Seeing Now?

- Drivers for future increases
- Carbon – come and gone
- Impact of Solar
- Future increases
- Changes in regulated tariffs
- Compulsory market entry for > 100,000 kWh/annum



Opportunities for reducing costs

- Negotiate a better arrangement
- Energy Management
- Group Electricity Purchasing
- Bulk Electricity Supply



Negotiate a better arrangement

Better regulated tariff

Discounted arrangements for smaller bodies corporate (less than 100,000 kWh per annum)

Negotiated electricity contracts for larger bodies corporate (greater than 100,000 kWh per annum)



Better regulated tariff

All residential bodies corporate should be on Tariff 11 by default

All commercial or industrial bodies corporate should be on Tariff 20 by default

Residential bodies corporate in excess of 12,000 kWh per annum are generally better on Tariff 20 or 22

May require some electrical work to change tariff

Larger bodies corporate should be on contract



Negotiated discount arrangements

Savings offered will depend on

Annual consumption

Tariff

Residential or commercial

Typical savings

From 5% up to 30% for larger bodies corporate (residential or commercial)
and on a commercial tariff (Tariff 20 or 22)



Negotiated market contracts

A negotiated market contract is the alternative electricity supply arrangement to a regulated (tariff) arrangement

Greatest opportunities where annual consumption exceeds 100,000 kWh per annum

Savings in excess of 30% and up to 45% is achievable for common area accounts depending on current arrangements

Enter into a fixed term contract based on negotiated rates



What can Bodies Corporate do?

- Request a review of your body corporate electricity accounts – generally costs nothing
- Electricity is more than just a line item in a budget
- Confirm the type of arrangement
- Understand any existing arrangements – i.e. if on a contracts - record contract end date



Energy Management

Energy Audit

- Provides an understanding of the energy use
- Identifies opportunities for energy reduction through using less - switching off or change in behaviour
- Identifies opportunities for installation of more energy efficient equipment
- Identifies opportunities for shifting consumption to off peak times (i.e. hot water systems)



Examples of savings opportunities

- Energy efficient lamps replacement
- Turning off lights when areas are unoccupied
- Installation of time switches
- Changing heating or cooling temperature controls
- Car park ventilation control
- Better control of fans and pumps



Group electricity purchasing

- Group discount negotiation
- Community purchasing
- Benefits individual homes, units apartments
- Groups of 100's or 1,000's of customers
- Typical savings still in the range of 10 to 12%



Bulk electricity supply

Bulk supply is the combined purchasing of the body corporate common area and the individual apartments

The body corporate on supplies to the residents, tenants or lot occupiers as well as the common areas

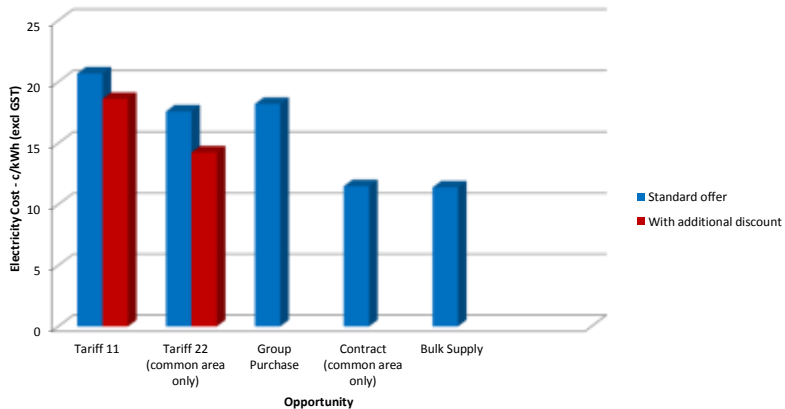
Typical savings in the order of 30 to 45% for apartment occupiers

Size does matter - suits bodies corporate with 40 to 50 lots or greater



Comparison of opportunities

Estimated Average Electricity Price



Central Hot Water

There are several different arrangements for central hot water

“Bulk Hot” where the body corporate owns and maintains the plant and
Origin sells hot water to residents

“Serviced Hot” where Origin owns and maintains the plant and sells hot
water to residents

Body Corporate owned and operated system



A little about solar

More suited for single detached residential property

Maximum rebates up to first 1.5kW of solar installed

Typical generation of up to 5.4 hours per day – annual average
peak hours

Critical the system is not oversized



A little about Energy Options Australia

Providing energy related services to 100's of bodies corporate for 12 years

Consultants with over 70 years combined experience

Services include -

Tariff Reviews – managing tariff changes

Discount and Market Contract negotiations

Energy Audits

Centralised hot water

Bulk supply conversion – independent project management



Summary

Strata communities have more opportunities for lower electricity costs than most other residential customers

Energy costs can be managed despite the “bad news” in the media

Ensure your community is on the best possible rates and using as little energy as possible

Don't take offers on face value - seek expert help



Effective Body Corporate Committee Meetings

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Effective Body Corporate Committee Meetings

- What makes the meeting lawful?
- What tips make the meeting effective?
- Tips first...

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Effective Body Corporate Committee Meetings

➤ Plan your Committee/meeting

➤ Personnel



➤ Outcomes



Effective Body Corporate Committee Meetings



Effective Body Corporate Committee Meetings

Decisions or a “blue”?

- The meeting makes, or even better, confirms decisions.
- If there needs to be a blue, make that a different meeting – consider using a mediator.

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The most important person?

Me!



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Recipe for a disaster:

- Take one most important person; mix with others actually of equal importance; continue until disaster strikes.



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Key is often Chairperson

- No casting vote here;
- Needs to be inclusive;
- Needs skills to move things along.

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Types on Committees



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7 persons

FYE – plan!!!

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How many on the Committee?

- The AGM determines the number.
- If there are 6 elected at the AGM, you need to keep the number 6.
- Positions may change as people sell or resign, etc, but you need a team of 6 in place – 1 month to replace.



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The meeting



Fail to plan –
plan to fail

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Ways to plan meetings

The pre-meeting;

The pre-meeting conference call;

The walk around;

The gathering;

Proxies;

The meeting conference call



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The committee in dispute



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Non-member attendance

There is legislation;

But: be consistent;

Some have a history of
troublesome meetings
because of this.



Suggestion: Follow the Law.

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Notice of meetings (days)

7 days

or

2 days (all agree in writing)

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The meeting – Quorum



Committee of 7
Quorum is 4



Committee
of 3 or 4
Quorum is 2



Committee
of 5 or 6
Quorum is 3



Effective Body Corporate Committee Meetings

The meeting – where and quorum



Committee of 7
Quorum is 4



Committee
of 3 or 4
Quorum is 2



Committee
of 5 or 6
Quorum is 3







Effective Body Corporate Committee Meetings

Agenda item discussion

It is very important to:

- Be concise;
- Be inclusive of all members;

There is nothing wrong with:

“I have nothing to add. I will be supporting it.”



↑
To be avoided!

Effective Body Corporate Committee Meetings

Attendance rule – missing two meetings

- Proxy – 2 allowed per year
- Leave – committee can agree to grant leave especially if many meetings to be held and work restrictions limit some people.



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Majority required.
Ratified at next committee meeting.

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Committee minutes
Location – behind here:



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How many committee meetings must you hold each year?

- A. At least one;
- B. At least four;
- C. No more than 8;
- D. As many as the committee wishes

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The decision made

Clarify results –

“So, that is 7 YES?”

“So, I’m hearing 5 YES and 2 NO?”

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The meeting is over – it’s time for action



Or is it?

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The modules re: action

Standard – minutes + 7 days
(50% can change the decision)

Accommodation – immediate

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Calling a meeting and where?

Previous meeting is best;

The Secretary;

**Person authorised by a
majority of committee**

Anywhere but within 15km
if 50% want it local



To Rio

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Effective Body Corporate Committee Meetings

Beware the conflict of interest

A whole section of the Module deals with conflict of interest;

The Code of Conduct lists it too;

“My brother is the plumber proposed to do the work.”

“The application involves my unit.”

Offer to step out of the meeting.

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Committee spending

\$200.00 per lot

Or



As decided in general meeting

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The 2 quotation rule



Lesser of \$10,000; or
\$1,100 X number of lots; or
As decided in general meeting

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Effective Body Corporate Committee Meetings

If all members of the Committee have the best interests of the building and the Owners in clear sight for every decision that is made, they are doing the good ethical thing as well as meeting the requirements of their code of conduct.

Committees which make lawful decisions and take steps to minimise risk to the building, its Owners and its residents are well-protected by the law.

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