



THE COMMITTEE

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THE COMMITTEE

GETTING IN

Eligibility

- A person is eligible to be a voting member of the committee if the person is an individual nominated for membership by an owner AND is also:
 - (a) An owner; or
 - (b) (i) a member of the nominating owner's family; or
 - (ii) the attorney of the nominating owner
 - (iii) if the nominating owner is a corporation – its director, secretary or other nominee.
- Of course, an owner is eligible for committee membership.

Ineligibility

- Body Corporate Managers, Service Contractors and Letting Agents
- “Associates” of the above
- “Associates” is broadly defined in section 309 of the BCCMA

S 309 Associates - Act

- (1) *For this Act, a person is associated with someone else if—*
 - (a) *a relationship of a type to which this section applies exists between them; or*
 - (b) *a series of relationships of a type to which this section applies can be traced between them through another person or other persons.*
- (2) *This section applies to relationships of the following types—*
 - (a) *marriage or de facto relationship;*
 - (b) *the relationship of ascendant and descendant (including the relationship of parent and child) or the relationship of persons who have a parent or grandparent in common;*
 - (c) *partnership;*
 - (d) *the relationship of employer and employee;*
 - (e) *a fiduciary relationship;*
 - (f) *the relationship of persons, 1 of whom is accustomed, or under an obligation (whether formal or informal), to act in accordance with the directions, instructions or wishes of the other;*
 - (g) *the relationship of a corporation and executive officer of the corporation;*
 - (h) *the relationship of a corporation and a person who is in a position to control or substantially influence the corporation's conduct.*
- (3) *Despite subsection (2)(e) and (f), the owner of a lot in a community titles scheme and a letting agent for the scheme are not associated merely because of their relationship as owner and letting agent.*
- (4) *In subsection (2)—*
executive officer, *of a corporation, means a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director or the person's position is given the name of executive officer.*

Examples

- (a) If a person is the wife of a Service Contractor then that person cannot be a Committee Member
- (b) The Director of a Corporate service contractor is ineligible
- (c) If the nominating entities brother is an off site real estate who lets lots in the scheme – then the brother is ineligible to be a committee member
- (d) Non financial owners.

Non Voting Member

- (a) Body Corporate Manager
- (b) Caretaking Service Contractor

ONCE IN

Golden Rule No. 1

ALWAYS ALWAYS ALWAYS act in the best interests of the Body Corporate (Maybe?)

Query whether it is in fact possible to act in the interests of ALL owners at ALL times.

The Committee is tasked with administrative and day to day requirements if the Body Corporate.

Role of the Committee

- Deal with the day to day administration of the Body Corporate
- Administer the common property and assets of the Body Corporate for the benefit of the lot owners
- Implement the lawful decisions of the Body Corporate
- Enforce the bylaws.

Generally the committee can make decisions for its Body Corporate unless the decision is a decision on a restricted issue for the Committee.

What is a Restricted Issue?

S 42 Restricted issues for committee (Standard Module)

- (1) *A decision is a decision on a restricted issue for the committee if it is a decision—*
 - (a) *fixing or changing a contribution to be levied by the body corporate; or*
 - (b) *to change rights, privileges or obligations of the owners of lots included in the community titles scheme; or*
 - (c) *on an issue reserved, by ordinary resolution of the body corporate, for decision by ordinary resolution of the body corporate; or*

Note—

Issues reserved, by ordinary resolution of the body corporate, for decision by ordinary resolution of the body corporate, must be recorded in a register—see section 201 (Register of reserved issues).

- (d) *that may only be made by resolution without dissent, special resolution, majority resolution or ordinary resolution of the body corporate; or*
- (e) *to start a proceeding, other than—*
 - (i). *a proceeding to recover a liquidated debt against the owner of a lot; or*

- (ii) a counterclaim, third-party proceeding or other proceeding in relation to a proceeding to which the body corporate is already a party; or
- (iii) a proceeding for an offence under chapter 3, part 5, division 4 of the Act; or
- (iv) a prescribed chapter 6 proceeding; or

(f) to pay remuneration, allowances or expenses to a member of the committee unless, under section 43, the decision is not a decision on a restricted issue for the committee.

(2) In this section—

prescribed chapter 6 proceeding—

- (a) means a proceeding, including a proceeding for the enforcement of an adjudicator's order, under chapter 6 of the Act; but
- (b) does not include an appeal against an adjudicator's order.

Golden Rule No. 2

The Committee must act REASONABLY in making a decision

Examples

- Pets, Requests to make improvements
- Consenting to the assignment of Management Rights

Golden Rule No. 3

Make decisions formally, i.e. at a properly convened and held committee meeting or by way of a Vote outside Committee (AKA "Flying Minute").

- Avoid "informal meetings" or "informal gatherings"
- Motions are decided by majority vote
- The chairperson does not have a casting vote
- Conflicts of interest – must be disclosed and conflicted member is not entitled to vote.

GETTING OUT

S 33 Term of office (Standard Module)

- (1) *The term of office of a member of the committee continues until another person is chosen for the position.*
- (2) *However, a member's position becomes vacant if the member—*
 - (a) *dies; or*
 - (b) *becomes ineligible to hold the position; or*
 - (c) *resigns by written notice given to the chairperson or secretary; or*
 - (d) *is not present personally or by proxy at 2 consecutive meetings of the committee without the committee's leave; or*
 - (e) *is convicted (whether or not a conviction is recorded) of an indictable offence; or*
 - (f) *is removed from office by ordinary resolution of the body corporate.*
- (3) *For subsection (2)(b), without limiting the reasons a member may become ineligible to hold the member's position, a member is ineligible to hold the member's position if the member—*
 - (a) *was a member of the body corporate at the time the member was elected but is no longer a member of the body corporate; or*
 - (b) *was not a member of the body corporate at the time the member was elected and was nominated for membership by a member of the body corporate who is no longer a member of the body corporate; or*
 - (c) *is engaged as a body corporate manager or service contractor, or authorised as a letting agent.*
- (4) *If the body corporate engages a body corporate manager under a chapter 3, part 5 engagement—*
 - (a) *the term of office of a member of a committee for the body corporate ends; and*
 - (b) *subsections (1) to (3) do not apply to the member.*
- (5) *To remove any doubt, it is declared that subsections (1) to (3) do not apply to a non-voting member of the committee.*

S 34 Notice for breach of Code of Conduct (Standard Module)

- (1) *If a body corporate believes a voting member of the body corporate's committee has breached the code of conduct for the member, the body corporate may decide, by ordinary resolution, to give the member a written notice stating each of the following—*
 - (a) *that the body corporate believes the member has breached a stated provision of the code of conduct;*
 - (b) *details sufficient to identify the breach in not more than 600 words;*
 - (c) *that the member may give any other member of the body corporate, within the stated period of at least 21 days after the member is given the notice, a written response to the notice in not more than 600 words;*
 - (d) *that, if asked by the member, the body corporate will pay the member all postage charges and photocopy expenses reasonably incurred by the member in giving a written response under paragraph (c) to any other member of the body corporate;*
 - (e) *that the body corporate is to consider a motion to remove the member from office for the breach at the next general meeting of the body corporate called after the period mentioned in paragraph (c) ends.*
- (2) *If asked by the member, the body corporate must pay the member all postage charges and photocopy expenses reasonably incurred by the member in giving a written response under subsection (1)(c) to any other member of the body corporate.*

Schedule 1A Code of Conduct for Committee Voting Members

1 Commitment to acquiring understanding of Act, including this code

A committee voting member must have a commitment to acquiring an understanding of this Act, including this code of conduct, relevant to the member's role on the committee.

2 Honesty, fairness and confidentiality

- (1) A committee voting member must act honestly and fairly in performing the member's duties as a committee voting member.*
- (2) A committee voting member must not unfairly or unreasonably disclose information held by the body corporate, including information about an owner of a lot, unless authorised or required by law to do so.*

3 Acting in body corporate's best interests

A committee voting member must act in the best interests of the body corporate in performing the member's duties as a committee voting member, unless it is unlawful to do so.

4 Complying with Act and this code

A committee voting member must take reasonable steps to ensure the member complies with this Act, including this code, in performing the member's duties as a committee voting member.

5 Nuisance

A committee voting member must not—

- (a) cause a nuisance on scheme land; or*
- (b) otherwise behave in a way that unreasonably affects a person's lawful use or enjoyment of a lot or common property.*

6 Conflict of interest

A committee voting member must disclose to the committee any conflict of interest the member may have in a matter before the committee.



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Role of the committee

A body corporate must elect a committee at each annual general meeting. The committee is made up of lot owners or people who act for them.

The committee is in charge of:

- looking after the administrative and day-to-day running of the body corporate
- making decisions on behalf of the body corporate
- putting the lawful decisions of the body corporate into place.

The committee can make decisions by [calling a committee meeting](https://www.qld.gov.au/law/housing-and-neighbours/body-corporate/meetings/committee-meetings/calling-a-committee-meeting) (<https://www.qld.gov.au/law/housing-and-neighbours/body-corporate/meetings/committee-meetings/calling-a-committee-meeting>) or by voting outside a committee meeting.

Committee members

The following information applies to schemes under the:

- Standard Module
- Accommodation Module
- Commercial Module

A committee must have at least 3 members.

If the community titles scheme has more than 7 lots, the maximum number of committee members is 7.

If a community titles scheme has less than 7 lots, the maximum number of committee members is the same as the number of lots. This is called the 'required number of committee members'.

The committee will usually include a chairperson, secretary and treasurer (known as the executive). One person may hold all or any two executive positions.

For schemes under the Small Schemes Module, the committee consists of a maximum of 2 members. The committee will only include a secretary and treasurer.

One person may hold the positions of secretary and treasurer at the same time.

For schemes under the Specified Two-lot Schemes Module there is no committee.

Find out further information about [forming a body corporate committee](https://www.qld.gov.au/law/housing-and-neighbours/body-corporate/forming-a-body-corporate-committee) (<https://www.qld.gov.au/law/housing-and-neighbours/body-corporate/forming-a-body-corporate-committee>).

The chairperson

The chairperson must chair all general meetings and committee meetings which they attend. If the chairperson is not at a meeting, the voters who are there can choose another person to chair the meeting.

When chairing a general meeting, the chairperson's duties include:

- ruling a motion out of order if
 - it is unlawful or unenforceable
 - it conflicts with a bylaw
 - the substance of the motion was not included in the agenda for the meeting
- declaring the results of voting on motions at the meeting
- confirming that each ballot-paper is the vote of a person who has the right to vote in the election (where a ballot for a committee position is needed)
- declaring the result of an election for a committee position.

If the chairperson rules a motion out of order they must give reasons, and give the meeting the opportunity to overturn their decision.

The chairperson does not have any more authority than anyone else on the committee.

The secretary

The secretary's duties include:

- sending out notices for meetings
- asking for and receiving nominations for committee positions at an annual general meeting. If a notice inviting nominations is forwarded to lot owners, the secretary must also invite owners to submit motions for the meeting
- making up the ballot papers for the committee election, and sending the ballot papers and the other material with the meeting notices
- having all of the following available to be viewed by voters at a general meeting
 - the roll
 - a list of the persons who have the right to vote at the meeting
 - all proxy forms and voting papers
- receiving the completed voting papers for a general meeting
- receiving the completed proxy forms for general and committee meetings.

Often the secretary will take the minutes of meetings even though the legislation does not require them to.

If the body corporate has engaged a body corporate manager, it may authorise the body corporate manager to carry out the secretary's duties.

The treasurer

The treasurer's duties under the legislation are limited.

If there is no body corporate manager, the committee may ask the treasurer to create a reconciliation statement. If the body corporate passes an ordinary resolution at a general meeting, a statement must be prepared, within 21 days after the last day of each month, for each account kept for the administrative and sinking fund, showing the reconciliation of:

- a statement, from the financial institution where the account is kept, showing the amounts paid into and from the account during the month
- invoices and other documents showing payments into and from the account during the month.

A treasurer may prepare budgets, manage funds and prepare levy notices, however the legislation does not require them to.

If the body corporate has engaged a body corporate manager, it may authorise the body corporate manager to carry out the treasurer's duties.

Non-voting members of the committee

If the body corporate engages a [body corporate manager](https://www.qld.gov.au/law/housing-and-neighbours/body-corporate/roles-and-responsibility/body-corporate-manager) (<https://www.qld.gov.au/law/housing-and-neighbours/body-corporate/roles-and-responsibility/body-corporate-manager>) or a [caretaking service contractor](https://www.qld.gov.au/law/housing-and-neighbours/body-corporate/roles-and-responsibility/service-contractor) (<https://www.qld.gov.au/law/housing-and-neighbours/body-corporate/roles-and-responsibility/service-contractor>), they are automatically non-voting members of the committee. A non-voting member does not have a right to vote on a committee decision.

Restrictions that apply to committee decisions

The committee cannot make a decision about:

- setting or changing a body corporate levy
- a change to the rights, privileges or obligations of lot owners
- a decision that has to be made by ordinary resolution, special resolution, resolution without dissent or majority resolution
- starting a legal proceeding unless it is:
 - to recover a liquidated debt against the owner of a lot
 - related to a proceeding where the body corporate is already a party

- for an offence under the by-law contravention provisions of the [Body Corporate and Community Management Act 1997 \(PDF\)](#) (<https://www.legislation.qld.gov.au/LEGISLTN/ACTS/2013/13AC011.pdf>) (PDF, 534KB) (<https://www.legislation.qld.gov.au/LEGISLTN/ACTS/2013/13AC011.pdf>)
- a dispute resolution application lodged with us
- paying any money to committee members unless it is less than \$50 incurred by a committee member attending a committee meeting and not more than \$300 reimbursed to a committee member in a 12 month period.

See [Sections 42 and 43 of the Standard Module \(PDF, 1.0MB\)](#) (<https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/B/BodyCorpStR08.pdf>) for more information.

Committee spending limit

[Committee spending](#) (<https://www.qld.gov.au/law/housing-and-neighbours/body-corporate/financial-management/authority-to-spend/committee-spending>) is limited and money must be available in the budget before the committee can spend it. If there is not enough money in the funds the committee would have to think about calling a general meeting to amend the budget or to raise a special levy.

Read about how to [remove a committee member](#) (<https://www.qld.gov.au/law/housing-and-neighbours/body-corporate/forming-a-body-corporate-committee/removing-committee-members>) from the committee for a breach of code of conduct or other reasons.

Further questions?

If you have further body corporate questions you can [submit an enquiry](#) (<http://www.qld.gov.au/law/housing-and-neighbours/body-corporate/roles-and-responsibility/general-enquiry/>) 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.

Also read about

- [committee meetings](#) (<https://www.qld.gov.au/law/housing-and-neighbours/body-corporate/roles-and-responsibility/role-of-the-committee/>)
- [forming a committee](#) (<https://www.qld.gov.au/law/housing-and-neighbours/body-corporate/forming-a-body-corporate-committee>)
- [committee spending](#) (<https://www.qld.gov.au/law/housing-and-neighbours/body-corporate/financial-management/authority-to-spend/committee-spending>)

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Last updated 30 May 2016

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