

**Office of the Commissioner for
Body Corporate and Community Management**

Practice Direction 20

SPECIALIST ADJUDICATION

This Practice Direction is issued pursuant to *section 233* of the *Body Corporate and Community Management Act 1997*. Its purpose is to provide further information on the policies and procedures applying to dispute resolution applications lodged with the Commissioner's Office. Nothing in this Practice Direction supersedes or overrides the requirements of the legislation and the Commissioner retains the discretion provided for in the legislation in the case management of dispute resolution applications.

1. The legislation provides for certain complex disputes to be determined either by a specialist adjudicator appointed by the Commissioner or the Commercial and Consumer Tribunal. Applicants may choose which forum they wish to lodge their complex dispute [Act, *section 229(2)*].
2. If an applicant seeks to have their complex matter heard by a specialist adjudicator they should lodge a dispute resolution application with the Commissioner which complies with the following requirements.

Requirements for specialist adjudication

3. The parties must agree on who is to be appointed as adjudicator.
4. The parties and the adjudicator must agree on the amount the adjudicator is to be paid for the adjudicator. The parties must agree how and by whom the amount is to be paid, or agree that the amount is to be paid in the way decided by the adjudicator.
5. The applicant must provide the following information:
 - a. The name and contact details of the nominee;
 - b. A statement from the nominee consenting to the appointment;
 - c. A statement from the nominee that they have no prior knowledge or involvement with the parties that could give rise to a conflict of interest in determining the dispute;
 - d. Details of the nominee's qualifications, experience and standing to determine the dispute;
 - e. Written agreement from the respondent to the nomination and to the remuneration of the nominee; and
 - f. Written confirmation from the nominee of their agreement to the amount of remuneration.

6. A specialist adjudicator will be appointed by the Commissioner if satisfied that there is the required agreement to the appointment and that the person nominated has the qualifications, experience or standing appropriate for acting as an adjudicator.
7. A specialist adjudicator should normally be a legally qualified person of senior standing with experience in the area of law in which the dispute relates and with demonstrated capacity to determine disputes.
8. The Commissioner's Office does not recommend nominees or provide a list of potential appointees. Applicants may wish to contact the Queensland Law Society or Queensland Bar Association, or identify persons previously appointed by the Commissioner's Office as a specialist adjudicator.
9. Where a body corporate is a party to an application to be determined by specialist adjudicator, the committee may agree to the person to be appointed as adjudicator and their remuneration, unless the potential remuneration for the specialist adjudicator will be above the spending limit for the Committee. Voting committee members should also consider any potential conflict of interest, for example if they are an applicant to the dispute, before casting their vote to agree to the specialist adjudicator.



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