

The Hallmark – Management of Complaints and Disputes

Background

Section 128 of the Owners Corporation Act 2006 requires lot owners to comply with the regulations under the Act and the Rules of the Owners Corporation. Part 10 of the Act provides for appropriate mechanisms for resolving disputes. The Act also sets out the rights as well as the obligations of lot owners.

The Hallmark Standard and Additional Rules are set out on the Hallmark website (www.thehallmark.com.au). These Rules deal with such matters as the use of Common Property, noise, renovations, moving in and out of apartments, rubbish and security.

The Owners Corporation Management Committee will deal with complaints and disputes about these Rules in a fair, equitable and transparent manner according to the Complaint Process and Dispute Resolution Procedure set out below.

Complaint Process

A resident wishing to make a complaint about any alleged contravention of the Rules should normally in the first instance contact the Building Manager who will seek to achieve a resolution of the complained about breach of the rules and of any dispute between the parties concerned.

If a satisfactory resolution is not achieved the complainant has the right to submit a **Written Complaint** to the OC Committee via the OC management company using the Form that is available on the Hallmark website.

The Management Committee, after due consideration of relevant factors, has three options in evaluating the complaint:

1. It can issue a Notice to Rectify Breach under Part 10 of the Owners Corporation Act 2006;
2. It can make application to VCAT for an order requiring rectification of the breach after it has followed the dispute resolution process required by the rules and satisfied itself that the matter has not been resolved; or
3. It can determine that the complaint does not merit any action in which case it must give notice to the complainant of its decision and set out the reasons for the decision.

Notice to Rectify Breach

If a Notice to Rectify Breach is issued the respondent has 28 days to rectify the breach and to respond to the Notice. If the OC decides that the breach has been rectified it will take no further action.

However, if it decides the breach has not been satisfactorily rectified it may issue a Final Notice to Rectify Breach. The respondent has 28 days to respond. If the OC is not satisfied with the response it may seek a rectification or compliance order from VCAT.

Application to VCAT

If the OC intends to apply to VCAT for an order to rectify a breach it must follow the **Dispute Resolution Procedure**:

- The parties to the dispute must meet and discuss the matter with the Owners Corporation Grievance Committee within 14 working days after the dispute is notified to all parties.
- A party to the dispute may appoint a person to act or appear on his or her behalf at the meeting.

If the dispute is not resolved by discussion between the parties, each party has the right to take further action under Part 10 of the Owners Corporation Act 2006.

If the OC takes no further action in response to a written complaint the complainant may apply to VCAT to challenge the basis of the OC's decision and/or for a compliance order against another lot owner or resident.

11th February 2020