



What effective procedures and / or policies should a body corporate committee employ?

This Q&A Paper has been written to help new committee members to establish and maintain good practices regarding the usual day-to-day issues that befall a body corporate.

The comments in this Paper are opinion from this Company based on many years experience in the Industry. Please note that while terminology has been used to assist in understanding, readers should only rely on actual wording contained in applicable legislation.

1. Conduct of Committee (including individual Committee Member actions)

1.1 How to Prepare for Committee Meetings

For your information, the body corporate manager (BCM) shall liaise with the chairperson and onsite caretaker regarding the finalisation of the committee meeting agenda.

Agendas normally include the following:

- Adoption of the minutes of previous meeting(s);
- Any business arising from the previous meeting(s);
- Financial reports;
- Correspondence to be addressed;
- Caretaker's reports; and
- Any chairperson and / or sub-committee reports.

Supporting documentation is normally distributed to committee members. It is essential that each committee member must read such documentation and duly prepare for the meeting. Meetings are always longer in duration if this preparation is not undertaken by all committee members.

It is considered best practice that where the agenda or supporting documentation identifies a point of interest, committee members should investigate the matter in conjunction with other committee members, the caretaker and / or the BCM.

1.2 How Body Corporate Committees Make Decisions

A valid and proper decision by the committee is made when at least a majority of the committee members decide the issue.

Voting can be as follows:

- In person at a duly convened committee meeting;
- In writing when a voting paper is supplied; and
- In cases of emergency, via telephone.

Consequently, proper decisions are those made at a meeting (whether in person or not) and where a set of minutes recording the decision is made. All minutes of committee meetings should be sent to lot owners shortly after the meeting has been held.

1.3 Post-Meeting Activities

Decisions are usually implemented by the caretaker, the BCM, committee members, or by other parties so named in the minutes (for example, contractors). Only actions that relate to decisions can be taken. Should there be a different action needed, the matter should be resolved at another committee meeting.

1.4 Proxies and Absenteeism

A committee member can appoint another as a proxy, subject to the applicable legislation:

- a) For the Body Corporate and Community Management (Accommodation and Standard Modules) Regulations 1997, provided another committee member is appointed; or
- b) For the Building Units and Group Titles Act 1980, provided another lot owner or company nominee (including another committee member) is appointed.

With respect to absenteeism, committee members should contact the BCM to advise that they are unable to attend a committee meeting. Consequently, an apology is recorded in the minutes accordingly. Subject to applicable legislation, if a committee member is absent from more than one (1) committee meeting without ratification from remaining committee members, their membership could be revoked and another committee member appointed in their place.

1.5 Who may attend Committee Meetings?

Subject to applicable legislation, only committee members, the caretaker and the BCM may attend committee meetings.

Lot owners who also wish to attend a committee meeting must write to the secretary requesting permission, and such notice must be received no later than twenty-four (24) hours prior to commencement of the meeting.

1.6 Restricted Matters

Pursuant to the applicable legislation, a committee is restricted from making decisions if:

- 1) The cost of the item being decided exceeds either the limit set by the applicable Act or other such amount at a general meeting;
- 2) The decision before the committee alters the rights and privileges of lot owners. For example, if the body corporate by-laws state that animals are prohibited within a scheme, the committee cannot allow one to be kept;
- 3) The decision is regarding entry into a prescribed arrangement. For example, the committee cannot enter into a lift maintenance agreement;
- 4) Subject to applicable legislation, the decision is regarding monies paid (including reimbursements) to committee members; and
- 5) The decision is regarding anything a general meeting decides as an additional restriction on the committee. For example, a general meeting could stop the committee from deciding on the height of hedges along a waterfront.

When the committee is restricted from making a decision, a general meeting of lot owners shall be convened to decide the matter.

1.7 Conflict of Interest

Where the committee is called upon to decide on a particular issue which could benefit a particular committee member, then that member is to declare the conflict or potential conflict of interest and abstain from voting.

1.8 Precedent-Setting Decisions

Committees should be aware that once a decision is made on a matter, other lot owners will expect the same treatment / that the same decision be made should the same issue arise in future. It is common that the Office of the Commissioner for Body Corporate and Community Management also expects consistency in terms of committee resolutions. Committee members should therefore consider when

making decisions that these decisions are well founded, in order to form suitable precedents for future similar requests.

1.9 Wearing a Committee Member or Lot Owner ‘Hat’

When committee members are called upon to vote on a particular issue, they are to do so as a committee member and not as a lot owner. In fact, it is often best for committees to make decisions which benefit at least a majority of lot owners.

1.10 Term of Committee Membership

Unless a member’s position is vacated during the year, a committee member remains on the committee until the end of the ensuing annual general meeting.

2. Committee Representatives to Caretaker and BCM

To assist in the day-to-day operation of a body corporate and in common property maintenance matters, the Committee should appoint one (1) of its members to liaise on a regular basis with both the caretaker and the BCM. Any issues of concern or direction should be taken to a committee meeting for a decision.

3. By-law Enforcement

An effective by-law enforcement procedure is as follows:

- 1) Breaches are either to be noticed by representatives of the caretakers, or a person noticing a breach may report the breach to the caretakers;
- 2) A representative of the caretakers is to personally approach the person(s) offending, point out that they have breached the by-laws and request that they comply with the by-laws. The caretakers shall keep a record of the approach;
- 3) If the offender continues to breach a by-law, a representative of the caretakers shall again approach the person to reiterate the need to fully comply with the by-laws;
- 4) Following any non-compliance, the caretakers shall then write to the body corporate to notify that two (2) approaches have been made so that there is a body corporate record of the breaches;
- 5) If the offender continues to breach the by-laws following the two (2) previous approaches, the caretakers shall notify the body corporate and at that time the BCM shall serve a Notice of Contravention of Body Corporate By-laws on the offender, to be executed by the chairperson under the seal of the body corporate;
- 6) Any further action will be via applications for enforcement to the Office of the Commissioner for Body Corporate and Community Management or via the Magistrates Court; and

- 7) All additional costs to the body corporate to have a lot owner / occupier comply with the by-laws are to be reimbursed by the offending lot owner / occupier.

4. Financial Procedures

To maintain transparent and accountable financial processes, the following procedures should be adopted by committee:

- 1) At least one (1) committee member should be a cheque signatory on the body corporate's bank account/s;
- 2) All payments to body corporate creditors should be approved by a committee member prior to the payment being made;
- 3) A committee member and the caretaker should receive from the BCM monthly financial statements, showing the body corporate's current financial position and actual expenditure to date against the annual budget;
- 4) At each committee meeting, a full list of cheques drawn since the last meeting should be tabled by the BCM in order for all committee members to view and ratify the payments;
- 5) Levy and other arrears should be presented by the BCM at each committee meeting, for discussion and if necessary debt collection; and
- 6) It is best for the committee to establish a policy in terms of the body corporate's schedule for debt collection. This enables the BCM to act on such matters automatically without awaiting a future committee meeting, although the committee should be advised before any legal action is commenced against a lot owner.

5. Additional Policies

During the day-to-day operation of the body corporate, it is likely that certain issues will arise, for example:

- The number of quotations to be obtained for maintenance works, etc.;
- The use of visitor car parking areas;
- The installation of window coverings;
- The keeping of pets;
- The reimbursement of false fire alarm charges; and
- The installation of additional personal security devices.

It is wise for policies to be made by the committee and for details of those policies to be kept by the caretaker, so that there may be a consistent and expeditious approach to resolving these and other day-to-day body corporate issues.

6. Defects in Lots and Common Property

In order to facilitate the resolution of building defects, the body corporate committee should establish good lines of communication between the original builder, the caretaker and lot owners.

Please note that the committee may only make decisions regarding common property defects.

We hope that you will find this information to be an effective guide for your Body corporate.