



Forming a body corporate committee v

This factsheet explains the requirements in forming a body corporate committee including eligibility for nomination and timeframes to accept nominations. Information on the election process can be obtained from the factsheet *Body corporate elections*.

References to the *Body Corporate and Community Management Act 1997* (the BCCM Act) and the *Body Corporate and Community Management (Standard Module) Regulation 2008* (the Standard Module) will be included. The legislation should be consulted as the primary reference.

Is it necessary to form a committee?

Yes. The body corporate must elect a committee at each annual general meeting. Committee members may also be appointed at an extraordinary general meeting or casual vacancies may be filled at a committee meeting.

Once elected, the committee is tasked with the administrative and day-to-day requirements of the body corporate. The committee acts on behalf of the body corporate and puts in place the lawful decisions of the body corporate (BCCM Act sections 100 and 101). For more information refer to *The role of the committee* factsheet.

While the body corporate may engage a body corporate manager, and in writing authorise the body corporate manager to exercise some or all of the powers of the committee, the elected committee still retains all its powers and can act in its own right.

In rare circumstances, there may be insufficient interest from members to form a committee. The body corporate may engage a body corporate manager to carry out the functions of the committee including the executive positions. This type of engagement is different from the usual body corporate manager engagement as described above and is known as a Chapter 3 Part 5 engagement.

If a body corporate chooses to make this type of engagement it is effectively engaging the body corporate manager to be the committee, with all the powers of the committee. Under this type of engagement there will not be a committee. (See BCCM Act section 119 and Standard Module sections 7, 13 and 58) For more information refer to the *Body corporate manager* factsheet.

Who comprises the committee?

The committee is comprised of executive members (chairperson, secretary and treasurer), ordinary members and non-voting members.

Voting members

The term 'voting member' means a member of the committee other than a non-voting member. The chairperson, secretary, treasurer and ordinary members are voting members.

Non-voting members

Body corporate managers and caretaking service contractors are automatically non-voting members of the committee.

How many voting members are required?

The committee must have a minimum of three but no more than seven voting members. If there are seven or more lots in the scheme, seven voting members is the maximum number. If there are less than seven lots in the scheme, the maximum number of voting members must equal the number of lots. For example, if there are five lots, five voting members are the maximum (Standard Module sections 9, 12 and Dictionary).

Who is eligible to be a voting member?

Members of the body corporate (that is, the lot owners) are eligible to be voting members of the committee and may nominate themselves for committee membership. Alternatively, the lot owners may nominate another eligible person. As lot owners may be individuals, corporations or subsidiary schemes in a layered scheme, the regulations define who these lot owners may nominate.

An individual

A lot owner who is an individual may nominate one of the following for each lot they own up to a maximum of 3 (See Standard Module section 17):

- themselves
- another member of the body corporate
- a person whom they have appointed as their power of attorney
- a member of their family.

Family means:

- the individual's spouse, including 'de facto' spouse (*Acts Interpretation Act 1954* section 36)
- the individual's or spouse's children who are over 18 (including a stepchild or adopted child)
- the individual's parents or step parents
- the individual's brother or sister.

Note: only one co-owner of a lot can be a voting member of the committee at any one time. An exception to this applies and is described under the 'special circumstances' heading in the *Body corporate elections* factsheet.

A corporation

A lot owner that is a corporation may nominate:

- a director of the corporation
- the secretary of the corporation
- another nominee of the corporation.

A subsidiary scheme

The body corporate for a subsidiary scheme may nominate a representative to sit on the committee of the principal scheme. The representative must be a member of the committee for the subsidiary scheme. If the committee has not appointed a representative, the chairperson automatically fills this role.

For more information on layered schemes, please contact the BCCM Office Information Service.

People who are **not** eligible to be voting members:

- body corporate managers
- service contractors
- letting agents
- associates of body corporate managers, service contractors or letting agents ('associates' are defined in the BCCM Act section 309)
- a person (other than the authorised letting agent for the scheme) who conducts a letting business for a number of lots in the scheme
- a lot owner or a person nominated by the owner, if the owner owes a debt to the body corporate at the time when the committee members are chosen. Additionally a lot owner is not able to nominate a person for committee membership if the lot owner owes a body corporate debt when the nomination is received by the secretary (Standard Module section 17).

How do members nominate?

Prior to every annual general meeting, the secretary must give each lot owner a notice inviting the nomination of an individual for committee membership.

The secretary has a three week period in which to do this. The notice must be given at least three weeks before, but not

earlier than six weeks before, the end of the body corporate's financial year.

All completed nominations must be returned to the secretary by the end of the body corporate's financial year.

The secretary must forward written notice to the candidate acknowledging the nomination has been received. While there is no specific timeframe for this, it must be done as soon as it is practicable.

The diagram below illustrates these provisions as well as the timeframes for convening the annual general meeting (Standard Module section 16).

For information about electing a committee, refer to the *Body corporate elections* factsheet.

The Office of the Commissioner for Body Corporate and Community Management (BCCM Office)

Phone (freecall): 1800 060 119
Email: bccm@justice.qld.gov.au
Website: www.justice.qld.gov.au/bccm
Street address: Brisbane Magistrate's Court
Level 4, 363 George Street, Brisbane
Postal address: GPO Box 1049, Brisbane Qld 4001

Copies of the *Body Corporate and Community Management Act 1997*, the regulation modules, and any amendments can be accessed for free via the Office of the Parliamentary Council by visiting:

www.legislation.qld.gov.au/Acts_SLs/Acts_SL.htm

Copies can be purchased online by visiting

www.bookshop.qld.gov.au, or by contacting SDS Customer Service by phoning (07) 3883 8700 or 1800 801 123.

Disclaimer

The laws referred to in this guide are complex and various qualifications may apply in different circumstances. The information in this factsheet does not constitute legal advice. You are encouraged to obtain independent legal or financial advice if you are unsure of how these laws apply to your situation.

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