

Dispute resolution

(2) About the model policy

Guidance note for boards of major DELWP agencies

This guidance note is for use by board members of the over 100 major public entities and other statutory boards, committees, councils, panels, etc. in the Department of Environment, Land, Water and Planning (DELWP) portfolio, including large (category 1 and 2) committees of management of Crown land reserves.

Overview

Your board is expected to have a *Dispute resolution* policy that complies with its governance obligations and with good public sector governance practice.

The board's policy should include procedures for dealing with disputes between board members.

DELWP model policy

DELWP offers a model policy on *Dispute resolution*. Your board's policy should be consistent with the DELWP model policy.

If your agency's establishing Act includes specific requirements in relation to dispute resolution, adapt the model policy accordingly.

Terms used

The model policy uses generic terms. Your board can substitute its own terms, for example:

- *board* - committee, council, panel, etc.
- *board member* - director, committee member, etc.

Governance obligations and good practice

The model policy is based on governance obligations that are binding on most DELWP agencies – e.g. requirements in the *Public Administration Act 2004* (PAA).¹

Even if these obligations are not legally binding on your agency, they are **basic good governance practice** for all DELWP agencies.

Overview of model policy

- A 'dispute' is not just a difference of opinion between board members when discussing a proposed decision.
- A 'dispute' exists if two or more board members have difficulty working together (e.g. because of a conflict of personalities or ideological differences) and it is unduly affecting the functioning of the board.

¹ Almost all DELWP agencies are public entities and are therefore subject to the PAA and related codes – e.g. [Directors' Code of Conduct](#). Most, except usually small 'category 3' committees of management of Crown land reserves, are bound by Divisions 2 and 3 of Part 5 of the Act (s 79 to 85).

Sections 79 to 85 bind public entities that were established after 1 July 2005 OR have had their establishing Act amended to deem that the agency is subject to such provisions (e.g. CMAs and water corporations) OR are included in an Order made by the Governor in Council under section 75(a) of the PAA and published in the Government Gazette.

- Disputes are avoided where possible.
- If a dispute arises, the parties act in good faith to resolve it as soon as possible, preferably on an informal basis. The chair actively guides this process.
- If, whilst the informal resolution of a dispute is being attempted, the chair believes that the board should be notified of the dispute (e.g. because it may pose a major risk to the effective operation of the agency), it is placed on the agenda of the next board meeting for noting/monitoring.
- If a dispute cannot be resolved informally, the chair includes it on the agenda of the next board meeting.
- If the board is satisfied the dispute is unresolved despite proper and sufficient effort by the parties, it will appoint a formal mediator, if it is in the public interest to do so.
- The parties co-operate with the mediator, provide all reasonable assistance, and otherwise actively work in good faith to resolve the dispute.
- If a dispute poses a major risk to the effective operation of the agency, the Minister and the Secretary of DELWP are notified.

Specific requirements in establishing Act

Sometimes, the establishing Act includes requirements as to how disputes between board members must be dealt with. These are *minimum* requirements, which the board's policy must meet or exceed.

Further information

On Board (www.delwp.vic.gov.au/onboard), in particular, the [Dispute resolution](#) support module.


This document is available from the internet at www.delwp.vic.gov.au/onboard

For more information contact the DELWP Customer Service Centre 136 186

24 February 2016 (version 2.05) – 52.11

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ISBN 978-1-74287-744-0 (online - set)

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