

Office of the Commissioner for Body Corporate and Community Management

Practice Direction 16

Interim order applications

This practice direction is issued pursuant to [section 233](#) of the *Body Corporate and Community Management Act 1997* (the Act). Its purpose is to provide further information on the procedures and content requirements for dispute resolution applications lodged with the Commissioner's Office. Nothing in this practice direction supersedes or overrides the requirements of the legislation. The Commissioner retains the discretion to make decisions about the case management of individual dispute resolution applications as provided under chapter 6 of the Act.

What is an interim order?

1. An interim order is a temporary order designed to stop some form of harm occurring while an application for a final order about the main dispute is being processed and decided.
2. An interim order is not appropriate in all final order applications. Examples of appropriate circumstances are provided below.
3. An interim order applies only for the time period stated in the order or until the order is varied or cancelled by another interim order, or the final order application is decided or withdrawn, whichever comes first.
4. An interim order cannot be used to finally resolve the main dispute. If an applicant urgently needs a final order, for example to authorise spending on emergency building repairs, they should instead consider applying for an emergency order [refer [Practice Direction 18: Emergency expenditure applications](#)].
5. An adjudicator may decide an application for an interim order without submissions from other parties. However, the adjudicator may decide to invite submissions if it is appropriate in the circumstances.

What are the requirements for an interim order application?

6. An application for an interim order must be made as part of an application for a final order, on the same application form.
7. An application for an interim order may be rejected by the Commissioner or dismissed by an adjudicator if the information and evidence provided by the applicant does not demonstrate that the following requirements are met:
 - a) The interim order is necessary to stop serious and irreparable harm being done until a final decision about the main dispute is made on the application.
 - b) The applicant has made reasonable attempts, in the circumstances, to resolve the main dispute with the other party and to prevent the harm occurring in the meantime.
 - c) The requested interim order would have only a temporary effect, and not be a final resolution of the main dispute.
 - d) The requested interim order is related to the main dispute to be resolved.
8. Applicants should refer to the [Guide to completing the adjudication form](#) for more detailed information about what they need to provide to support their application for an interim order.

What are some examples of appropriate interim order applications?

9. The following are examples of circumstances where an interim order may be appropriate:

- a) A body corporate's committee decided to pay a contractor to paint the scheme buildings. A lot owner thinks the decision is invalid because the decision should be made by owners at a general meeting. The committee disagrees and says it will go ahead. The owner requests a final order that the committee's decision was invalid and cannot be implemented. Because the owner is concerned that the committee may soon sign the painting contract and pay a large deposit which would not be refunded, the owner also requests an interim order to stop the committee acting on its decision until the adjudicator makes a final decision about the validity of the committee's decision.
- b) A lot owner is renovating their lot. The body corporate is concerned the works will include changes being made to common property without the required body corporate approval. The lot owner disagrees that they need approval and refuses to stop the works. The body corporate requests a final order that the lot owner needs approval for that work. The body corporate also requests an interim order to stop the lot owner continuing with any works which affect common property, until the adjudicator makes a final decision about whether they need approval.

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