

Dispute Resolution as a Member of a Group

The information in this factsheet is general information only and should not be relied upon as legal advice. It is for home owners in manufactured home parks and residents in retirement villages in Queensland.

DISPUTE RESOLUTION

There are many ways to resolve disputes between a home owner and park operator, or resident and village operator.

The Queensland Retirement Village and Park Advice Service (QRVPAS) [Manufactured Home Park Dispute Resolution factsheet](#) sets out the dispute resolution processes under the *Manufactured Homes (Residential Parks) Act 2003* (Qld) (MH Act), and the [Retirement Village Dispute Resolution factsheet](#) explains dispute resolution under the *Retirement Villages Act 1999* (Qld) (RV Act).

You have been provided with this factsheet because you are part of a group undertaking or considering dispute resolution under the MH Act or the RV Act, and a member of that group has sought legal advice from QRVPAS.

The purpose of this factsheet is to provide you with information about the role QRVPAS can play when providing legal advice to a group of residents or home owners, including the process QRVPAS will follow and the limitations on sharing legal advice between members of the group.

Dispute resolution on behalf of a group

Sometimes a group of residents or home owners will experience the same issues with a park owner or village operator. For example, where a group of home owners disagrees with a site rent increase in a manufactured home park, or where a group of residents are unhappy about plans to redevelop a retirement village.

It can be beneficial for groups of residents or home owners who have the same sort of dispute to work together to resolve it. A group may be more effective at negotiating a resolution than an individual because they have better bargaining power, shared knowledge and influence when they work together. Undertaking dispute resolution as a group also enables the responsibility for legal arguments, preparing written documents, filing fees and other costs to be shared. Finally, any positive outcome from the dispute resolution process will benefit all the individuals who have properly been named as parties on the dispute resolution forms.

However, there are certain things that individual residents and home owners need to be aware of when undertaking dispute resolution as part of a group.

LEGAL ADVICE GIVEN TO A GROUP

It is possible for a QRVPAS lawyer to give legal advice to a group of residents or home owners undertaking dispute resolution under the MH Act or RV Act.

Generally, when a large group of home owners or residents are involved in the dispute negotiation, QRVPAS will be approached by members of the residents or home owners committee seeking legal assistance. Sometimes, where there is no residents or home owners committee, a smaller group of residents or home owners will be working together to assist the rest of the individuals in the manufactured home park or retirement village to resolve the dispute. In either case, a smaller group of individuals will most often be working to assist a larger group to manage a dispute with the park or village owner.

For ease of reference, this factsheet will refer to the individual approaching QRVPAS and who subsequently becomes the client of Caxton Legal Centre as the 'spokesperson', the other members of the committee or group named on the letter of authority as 'the committee' and the remaining residents or home owners as the 'group'.

Steps QRVPAS will take when giving advice

There are some important procedural steps and that the QRVPAS lawyer will follow before, during and after giving legal advice to the spokesperson and other members of the committee.

These are underpinned by important professional obligations that apply to QRVPAS lawyers and Caxton Legal Centre, and will have consequences for you as a member of the group.

1. The QRVPAS lawyer will ask for a letter of authority

QRVPAS will require the spokesperson to complete a written authority form (letter of authority) before the legal advice appointment. QRVPAS will provide the spokesperson with this form to complete before the appointment. The letter of authority must state that the committee nominates the spokesperson to make enquiries and receive advice on behalf of the committee. Members of the committee must be identified on the letter of authority by their full name, date of birth and address, and must be signed and dated by the spokesperson and committee.

2. The names and identifying information on the letter of authority will be 'conflict checked'

Caxton Legal Centre must conflict check the names of the spokesperson and committee named on the letter of authority. A conflict check is undertaken to ensure no conflict of interest arises before legal advice is provided to the spokesperson or committee.

Lawyers have a duty to act honestly, fairly and in the best interest of their clients. They cannot act for a client where a conflict of interest exists or may potentially arise. A conflict of interest occurs when a lawyer serves or attempts to serve two or more interests that are not compatible. Relevantly, a conflict of interest will occur when a new client of Caxton Legal Centre is named as the other party in a previous client's matter, or when the other party in a new matter has been or is a client of Caxton Legal Centre.

Provided no conflict of interest arises, the spokesperson will become a client of QRVPAS, and the committee will be named as 'related parties'. Other members of the group do not become clients or related clients.

3. The legal advice appointment will be conducted with the spokesperson and committee

The legal advice appointment will then be conducted with the spokesperson and any members of the committee who are named on the letter of authority and wish to attend.

4. Verbal and written advice will be provided to the spokesperson and committee during the legal advice appointment

Verbal legal advice will be provided during the appointment and later confirmed in writing by the QRVPAS lawyer. The written advice will be sent to the spokesperson and any nominated recipients from the committee.

5. The scope of the verbal and written advice will be limited

The scope of advice provided to a group will be different to the advice provided to an individual. The advice provided to a group is likely to cover legal arguments that can be made on behalf of the group, as well as procedural assistance such as drafting documents and general advice on dispute resolution.

The legal advice will not consider the circumstances of the individual group members involved in the dispute. For example, we are not normally able to review and give specific advice about each site agreement/residence contract for each individual involved in the dispute. Instead, the legal advice will only focus on the processes, legal arguments and remedies that are relevant to the group as a whole.

If the spokesperson or committee member asks for individual advice during the appointment, they will be asked to make a separate appointment with QRVPAS.

6. The spokesperson and committee will be asked not to share their advice with the group

The spokesperson and committee members named on the letter of authority will be advised not to directly share the verbal or written advice provided by the QRVPAS lawyer with the group.

Communications or documents from the QRVPAS lawyer will be covered by legal professional privilege. This

is an important professional obligation that protects communications within the lawyer-client relationship from compulsory disclosure in litigation. Ordinarily, when a person is a party to a court case, a court can compel the person to disclose information relevant to the case by issuing them with a subpoena for production of documents or a requirement to attend court to give evidence, unless some kind of privilege attaches to the information that protects it from disclosure.

Legal professional privilege can protect both verbal and written legal advice. It means that the conversations between QRVPAS, the spokesperson and committee members can be protected from disclosure to the park owner or village operator.

This means that if you are not an individual named on the letter of authority, you should not expect to see the legal advice from QRVPAS, because the spokesperson and committee will be asked not to share this with you.

Assisting the spokesperson or committee to understand what legal arguments can be made on behalf of the group, or drafting dispute negotiation documents on behalf of the group, should help everyone progress the matter.

You also have the option of contacting QRVPAS directly for your own individual advice appointment, if you would like specific advice about your rights in this scenario.

WHAT DOES THIS MEAN FOR YOU?

Committees or informal groups

If you are a committee or informal group seeking advice from QRVPAS on behalf of a larger group of residents or home owners, please inform Caxton Legal Centre at the time of your advice appointment. This will allow us to provide you with the letter of authority template before the appointment, and avoid any delay with conflict-checking.

Individual resident or home owners

You can make an individual appointment with QRVPAS even if you are part of a group undertaking dispute resolution. Any advice given to you will remain confidential and protected by legal professional privilege. This means it will not be shared with the spokesperson or committee without your permission.

However, if your interests and concerns are different to the group or you are looking for a different outcome during the dispute resolution, QRVPAS will only be able

to assist you provided there is no conflict or potential conflict of interest between your legal interest and that of the group. If a conflict does arise, we will offer you a referral to a different community legal service in your local area.

Please also be aware that there are limits to the advice that QRVPAS can provide, and that we cannot provide advice on disputes between residents. You can read about the scope of advice we offer on our [website](#).

FURTHER READING

For further reading, please refer to the factsheets available on our [website](#).

CONTACTS

QUEENSLAND RETIREMENT VILLAGE AND PARK ADVICE SERVICE

This service is located within Caxton Legal Centre and provides free legal advice and information to current and prospective manufactured home owners, retirement village residents, and home owners and residents committees. We also offer community legal education presentations for residents or community groups.

Caxton Legal Centre

1 Manning St
South Brisbane Qld 4101

Tel.: (07) 3214 6333

www.caxton.org.au

ASSOCIATED RESIDENTIAL PARKS QUEENSLAND

The Associated Residential Parks Queensland is an association and advocacy group for current and prospective manufactured home owners in Queensland.

PO Box 1124
Park Ridge Qld 4125

Tel.: (07) 3040 2344

email: membership@arpq.org.au

www.arpq.org.au

ASSOCIATION OF RESIDENTS OF QUEENSLAND RETIREMENT VILLAGES

The Association of Residents of Queensland Retirement Villages provides support and assistance to association members in retirement villages in Queensland.

PO Box 5057

Brendale Qld 4500

Tel.: 0437 906 074

email: enquiries@arqrv.org.au

www.arqrv.org.au

QUEENSLAND CIVIL AND ADMINISTRATIVE TRIBUNAL

Tel.: 1300 753 228

If you live in Brisbane you can file your QCAT application in person at the Brisbane Registry:

Level 9

259 Queen Street

Brisbane Qld 4000

If you wish to file your QCAT application by mail to the Brisbane QCAT Registry you will need to send it to:

Queensland Civil and Administrative Tribunal

GPO Box 1639

Brisbane Qld 4001

If you are outside Brisbane you can file your application at any Magistrates Court. You can find a full list on the Queensland Courts website.

Application forms and the form that you need to complete if you want to apply for legal representation are available on the [QCAT website](#).

Caxton Legal Centre Inc.

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1 Manning Street

South Brisbane Qld 4101

REGULATORY SERVICES

This unit within the Department of Housing and Public Works is the government authority responsible for investigating complaints and prosecuting breaches of both the MH Act and the RV Act.

Tel.: (07) 3008 3450

email: regulatoryservices@hpw.qld.gov.au

DEPARTMENT OF JUSTICE AND ATTORNEY-GENERAL

This department provides a free dispute resolution service to help mediate disputes without having to go to court.

Tel.: 1800 017 288 (toll free outside Brisbane).

TENANTS QUEENSLAND/QSTARS

Tenants Queensland/QSTARS provide free legal advice to people renting a manufactured home or living in a caravan/converted caravan under a moveable dwelling tenancy agreement. They also have helpful information about manufactured homes on their website.

Tel.: 1300 744 263

www.tenantsqld.org.au

LAWRIGHT

LawRight provides free legal advice and assistance for people who are representing themselves in QCAT.

Tel.: (07) 3846 6317

www.lawright.org.au

Telephone: (07) 3214 6333

Facsimile: (07) 3846 7483

Internet: www.caxton.org.au

Know Your Rights! www.queenslandlawhandbook.org.au

This information is current at June 2020.

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