



A.B.N. 28 385 962 456
Incorporation No IA4584501
P.O. Box 349 Burpengary 4505

IN DEPTH

Information & Explanations

This content as set out below in this format for members of AMHO only. It is not to be distributed, copied, or cited either partly or in whole without the permission of the AMHO President.

Disputes, Negotiation, Mediation



**“Just to get the negotiation off on the right foot,
I don’t intend to concede anything.”**

As part of this subject of Disputes, Negotiation, Mediation we have noted in this newsletter the long winded but factual part of the Act so that all residents are aware of their rights and the processes to be followed.

We feel it is necessary for all manufactured home owners to know these facts, and if you have any questions please do not hesitate to contact us. We can help all residents when they find themselves involved in this area and not just advise, but also assist you to work through the process and support you at all stages.

Steps to resolving residential park disputes

If you have a problem with a residential park operator or another person in the park, you can take steps to resolve the problem. There is more than one way to resolve a dispute and different options may suit your situation better.

Miscommunications and misunderstandings are often the cause of disputes, so it's important to try to talk to the person involved first.

You can apply for a tribunal hearing if you feel you're at risk of, or experienced inappropriate financial advice, abuse / intimidation, threats, bullying, or any treatment where you feel unsafe or not secure.

This guide will take you through the steps involved in resolving the dispute yourself or with outside help, including getting legal advice.

Respect for all residents

At all times, residents must respect the:

- peace, comfort, and privacy of fellow residents
- right of the park operator, their employees, and their representatives to work in an environment free from harassment and intimidation
- right of staff and contractors in the park to work in a safe workplace.

Additionally, residential park owners must:

- respect the peace, comfort and privacy of a home owner and other residents
- respect the right for each home owner or other resident to live in an environment free from harassment and intimidation
- respect the rights of a home owner or other resident to have autonomy over their personal, financial, and domestic matters, as well as their possessions
- respond to correspondence from the home owner or other resident, or a representative of a home owner or other resident within 21 days.

Try to resolve it together first

It's important to discuss any concerns with the person involved first. We suggest you follow these steps when trying to resolve the dispute yourself.

1. Write to the manufactured home owner about your dispute and suggest a date for a meeting. You should give at least 14 days' notice before the meeting.
2. Allow 7 days for a response from the manufactured home owner.
3. Confirm or negotiate a meeting time that both parties can attend.
4. Voice your concerns clearly and try to resolve the issue in the meeting.

Try mediation



Mediation is less formal than a hearing and allows everyone to come up with a solution to agree on. The mediator makes sure everyone gets to speak but doesn't provide advice or pass judgement. Anything discussed during mediation is private and can't be shared with anyone or used in court.

Mediation helps people settle disputes without going to court. Taking part in mediation can save time, legal fees and court costs for you and the community.

Attending mediation is generally voluntary—for a mediation session to go ahead, both parties need to agree to attend. Before you apply for mediation you should be willing to meet with the other party to resolve the dispute.

The Manufactured Homes (Residential Parks) Act 2003 (the Act) recognises that disputes can arise between Home Owners and Park Owners/Managers, or even between individual Home Owners.

The Act defines what can be considered a 'Residential Park Dispute'. It also provides a structured process for resolution of these disputes in Part 17, Section 106 to 117.

Part 16 Obligations about behaviour of park owners and home owners

104 Park owner to respect rights of home owners and other residents

- (1) The park owner for a residential park must respect the rights of home owners and other residents of the park.
- (2) Without limiting subsection (1), the park owner—
 - (a) must not unreasonably interfere with, or allow interference with, the reasonable peace, comfort or privacy of a home owner or other resident; and
 - (b) must take reasonable steps to ensure a home owner or other resident, or the guest of a home owner or other resident, does not interfere with the reasonable peace,
 - (c) must use the park owner's best endeavours to ensure each home owner or other resident lives in an environment free from harassment and intimidation; and
 - (d) must not unreasonably restrict the right of a home owner or other resident to autonomy over their personal, financial, or other matters or possessions; and
 - (e) must not unreasonably restrict a home owner or other resident from exercising self-reliance in matters relating to their personal, domestic, or financial affairs; and
 - (f) must, within 21 days after receiving relevant correspondence from the home owner or other resident, or a representative of a home owner or other resident
(each a **correspondent**), give the correspondent a complete response to the relevant correspondence.

(3) However, if under subsection (2)(f), the park owner gives a correspondent a complete response to relevant correspondence (the **previous response**), the park owner is not required to give the correspondent another complete response addressing the same, or substantially the same, complaint, proposal or question addressed in the previous response.

(4) In this section— **complete response**, to relevant correspondence, means a written response addressing each complaint, proposal, and question in the relevant correspondence. **relevant correspondence** means a written complaint, proposal

or question about the operation of the park. **representative**, of a home owner or other resident, means an entity—

(a) established to represent the interests of the home owner, resident or home owners and residents generally; and

(b) that is authorised by the home owner or resident to give relevant correspondence to the park owner.

105 Home owners to respect rights of others



- (1) A home owner for a residential park must respect the rights of other residents of the park and other persons in the park.
- (2) Without limiting subsection (1), a home owner—
 - (a) must not unreasonably interfere with, or allow interference with, the reasonable peace, comfort, or privacy of another resident; and
 - (b) must respect the right of the park owner, park manager or a representative of the park owner or park manager to work in an environment free from harassment and intimidation; and
 - (c) must not act in a way that adversely affects the occupational health and safety of a person working in the residential park.
- (3) A home owner for a residential park must also ensure, as far as reasonably practicable, the home owner's tenant or guest complies with subsection (2)(a) to (c).
- (4) In this section— **representative**, of a park owner or park manager, means—
 - (a) if the park owner or park manager is a corporation—an executive officer, employee, or agent of the corporation; or
 - (b) if the park owner or park manager is an individual—an employee or agent of the individual.

Part 17 This division applies to the parties to a residential park dispute and provides for the procedures the parties may use to try to resolve the dispute.

Subdivision 2 Negotiation

107 Notice to negotiate resolution of dispute

(1) A party to a residential park dispute (the **first party**) may give the other party to the dispute a notice (a **dispute negotiation notice**)—

(a) stating the matters in dispute; and

(b) nominating a time on a stated day (the **nominated time**) at least 14 days but no more than 28 days after the notice is given for the parties to meet at a stated place (the **nominated place**) to negotiate a resolution of the dispute.

(2) If the first party gives a dispute negotiation notice, the other party must, within 7 days after receiving the notice, give the first party a written response agreeing to meet the first party—

(a) at the nominated time or on another day at another time within 7 days of the nominated time; and

(b) at the nominated place or another place as agreed.

(3) The parties must meet and try to resolve the dispute by negotiation—

(a) at the nominated time, or on another day at another time agreed by the parties that is within 7 days after the nominated day and time; and

(b) at the nominated place or another place agreed by the parties.

If the parties meet under subsection (3), the parties may agree to meet at other times to try to resolve the dispute by negotiation.



Subdivision 3 Mediation

108 Referral of residential park dispute for mediation

- (1) A party to a residential park dispute may apply to the registrar to refer the dispute for mediation under this subdivision.
- (2) However, a party to a residential park dispute (other than a dispute mentioned in section 14A(1)(a)) may apply under subsection (1) to have the dispute referred for mediation only if—
 - (a) the party has attempted to resolve the dispute by negotiation under section 107; and
 - (b) the dispute has not been resolved.
- (3) Within 14 days after receiving an application under subsection the registrar must—
 - (a) appoint a mediator to mediate the residential park dispute; and
 - (b) give written notice to the parties to the dispute of—
 - (i) the mediator who is to mediate the dispute; and
 - (ii) the time, date, and place of the conference (**mediation conference**) to be conducted by the mediator.

The notice must be given at least 7 days before the mediation conference.

109 Right of representation

At a mediation conference, a party to the residential park dispute may be represented by a lawyer or an agent unless the mediator is satisfied the party should not be represented.

110 Conference to be held in private

A mediation conference is not open to the public.

111 Parties to mediation conference

(1) A mediator may allow a person who is not a party to the residential park dispute to take part in a mediation conference if the mediator is satisfied the person has a sufficient interest in the resolution of the dispute.

However, the person does not become a party to the dispute.

112 Mediation agreements

(1) This section applies if the parties to a residential park dispute reach a mediated agreement on the dispute.

The mediator must record the agreement (the **mediation agreement**) in writing and have it signed by or for the parties.

113 No official record of mediation conference

(1) A person must not make a record of anything said at a mediation conference.

(2) However, the mediator does not contravene subsection (1) if the mediator—

(a) makes notes during the mediation conference the mediator considers appropriate and destroys them at the end of the mediation; or

(b) records an agreement under section 112(2).

114 Notifying outcome of mediation

- (1) As soon as practicable after the mediation ends, the mediator must give the registrar and the parties to the residential park dispute—
 - (a) if the parties have reached a mediated agreement on the dispute—a copy of the signed mediation agreement; or
 - (b) otherwise—a written certificate about the outcome of the mediation.
- (2) A certificate mentioned in subsection (1)(b)—
 - (a) must not state anything about the extent to which a party participated or refused to participate in the mediation; but
 - (b) may state that a party did not attend the mediation conference.

Division 2 - 115 Application for order to resolve residential park dispute

A party to a residential park dispute may, subject to section 116, apply to the tribunal for an order to resolve the dispute.

116 Requirements for application

- (1) This section applies if a party to a residential park dispute may apply to the tribunal under this Act for an order in relation to the dispute.
- (2) However, this section does not apply in relation to an application to the tribunal authorised under an exempt provision.
- (3) A party to a residential park dispute (other than a dispute mentioned in section 14A(1)(b)) may apply to the tribunal only if—
 - (a) the dispute has been referred for mediation under section 108; and
 - (b) 1 of the following applies—
 - (i) the parties to the dispute cannot reach a mediation agreement;

- (ii) a party to the dispute does not attend, or withdraws from, the mediation conference for the dispute;
- (iii) the dispute is not settled within 4 months after the dispute is referred for mediation;
- (iv) the parties reach a mediation agreement and the party making the application claims the other party has not complied with the agreement—
 - (A) within the time stated in the agreement; or
 - (B) if no time is stated, within 2 months after the agreement is signed.
- (4) A party to a residential park dispute mentioned in section 14A(1)(b) may apply to the tribunal only if—
 - (a) the party has attempted to resolve the dispute by negotiation under section 107; and
 - (b) the dispute has not been resolved.

117 Orders of tribunal

If a party to a residential park dispute applies to the tribunal for an order in relation to the dispute, the tribunal may make the following orders—

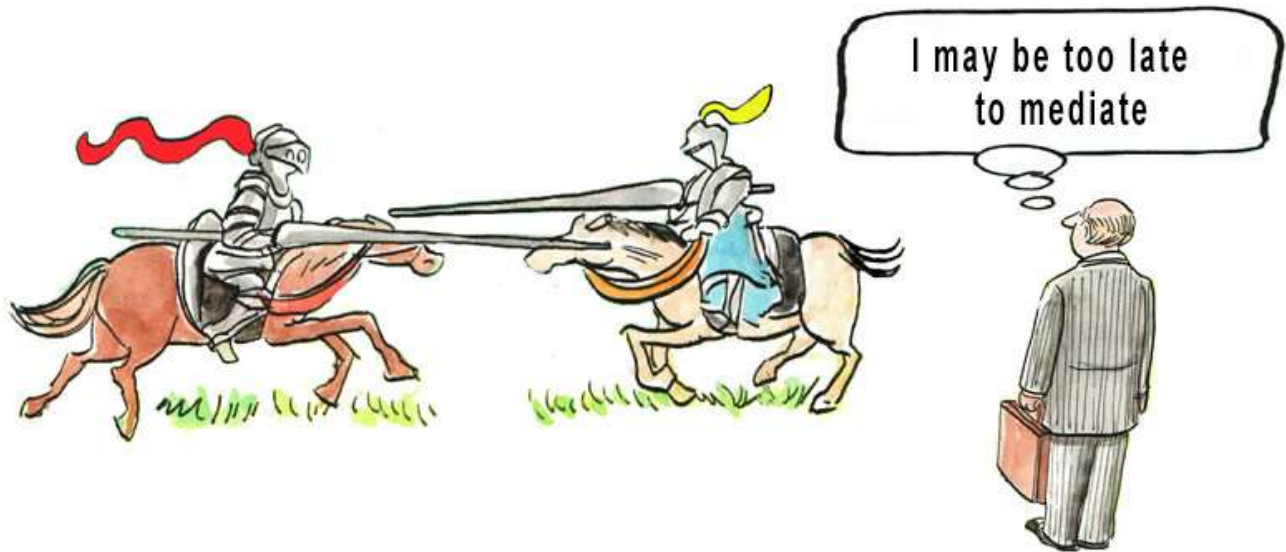
- (a) an order the tribunal is authorised to make in relation to the application under another provision of this Act;
- (b) any other order the tribunal considers appropriate to resolve the dispute.

Most disputes arise out of failure to resolve an initial complaint. If reconciliation fails, you can raise a formal complaint with the Park Owner / Manager via a letter in the following form:

- Complainant name and contact details (individual Home Owner or Home Owners Committee)
- The facts of the situation
- Which section of the *Act* and/or site agreement has been breached

- Copies of relevant documents or evidence to support the complaint (e.g., any previous correspondence)
- A statement that a full and complete response is expected within 21 days in accordance with Section 104(2)(f) of the Act.

A Dispute Resolution Centre will assess if the matter is suitable for mediation and schedule your mediation session at a time and location that is suitable to everyone involved. Mediation sessions can take around 3-4 hours.



Dispute Resolution Centres

Far North Queensland Dispute Resolution Centre

Hours: Monday-Friday, 9.00am-4.30pm

Address: Level 1, State Government Office Building 10-12 McLeod Street
Cairns Qld 4870

Email: drc.fnq@justice.qld.gov.au

Phone: (07) 4037 2600; 1800 671 680 (toll free outside Cairns)

Fax: (07) 4037 2607

North Queensland Dispute Resolution Centre

Hours: Monday-Friday, 9.00am-4.30pm

Address: 8 Blackhawk Boulevard Thuringowa Central Qld 4817

Email: drc.nq@justice.qld.gov.au

Phone: (07) 4417 8141; 1800 809 605 (toll free outside Townsville)

Fax: (07) 4417 8137

Mackay-Whitsundays Dispute Resolution Centre

Hours: Monday-Friday, 9.00am-4.30pm

Address: Old Court House 12 Brisbane Street Mackay Qld 4740

Email: drc.mkywhit@justice.qld.gov.au

Phone: (07) 4889 8402; 1800 501 576 (toll free outside Mackay)

Fax: (07) 4889 8404

Central Queensland Dispute Resolution Centre

Hours: Monday-Friday, 9.00am-4.30pm

Address: Courts Precinct 46 East Street Rockhampton Qld 4700

Email: drc.central@justice.qld.gov.au

Phone: (07) 4887 1760; 1800 817 927 (toll free outside Rockhampton)

Fax: (07) 4887 1760

Wide Bay Dispute Resolution Centre

Hours: Monday-Friday, 9.00am-4.30pm

Address: Level 1, Brendan Hansen Building 50-54 Main Street
Pialba Qld 4655

Email: drc.wb@justice.qld.gov.au

Phone: (07) 4120 6708; 1800 681 109 (toll free outside Hervey Bay)

Fax: (07) 4120 6714

South Queensland Dispute Resolution Centre

Hours: Monday-Friday, 9.00am-4.30pm

Address: Level 363 George Street Brisbane Qld 4001

Email: drc.sq@justice.qld.gov.au

Phone: (07) 3738 7000; 1800 017 288 (toll free outside Brisbane)

Fax: (07) 3738 7028

Legal services

Seniors legal and support service

If you are a victim of [elder abuse](#) or feel that you have been mistreated or taken advantage of financially, help is available. Eleven seniors legal and support services provide free legal advice, information, and social work services for people over 60.

The services can assist you with:

- legal information and advice
- social work services
- short-term counselling
- advocacy on your behalf

- a referral to other legal, consumer and support services
- representation in court or before tribunals (in certain circumstances).

Some examples of how they can help you:

- obtaining domestic violence protection orders
- developing safety plans
- support you to relocate to a place of safety
- advice on appointing or revoking a power of attorney
- information on protective strategies to manage your assets and prevent or stop financial abuse
- advocacy and negotiation on your behalf if you are a resident of a retirement village experiencing unfair contract terms and conditions
- advising on recovery of property or money following elder abuse or financial exploitation.

You can get help by phone, appointment at a service centre or, where possible, they can visit you in your home or another safe location.

For more information, contact your nearest service:

[Brisbane Seniors Legal and Support Service](#)

Caxton Legal Centre Inc.

1 Manning Street SOUTH BRISBANE QLD 4101

Phone: (07) 3214 6333

Caxton Legal Centre's [Queensland Retirement Village and Park Advice Service](#) (QRVPAS) is a specialist service providing free information and legal help. It offers this service for residents and prospective residents of retirement villages and manufactured home par

[Cairns Community Legal Centre—Seniors Legal Service](#)

Level 1, 85 Lake Street CAIRNS QLD 4870

Phone: 1800 062 608

[Hervey Bay Neighbourhood Centre—Seniors Legal Service](#)

16 Torquay Road PIALBA QLD 4655

Phone: (07) 4124 6863

[Toowoomba Seniors Legal Support Service](#)

The Advocacy and Support Centre Inc.

223 Hume Street SOUTH TOOWOOMBA QLD 4350

Phone: (07) 4616 9700

[Townsville Community Legal Service—Seniors Legal Service](#)

Unit 2 181 Sturt Street TOWNSVILLE QLD 4810

Phone: (07) 4721 5511

MAROOCHYDORE QLD 4558

Phone: 1300 063 232

Contact for Elder Abuse Helpline: 1300 651 192