

Home Owners Committee Handbook

For residential park home owners

December 2022



Queensland
Government

Acknowledgement

We respectfully acknowledge the Aboriginal and Torres Strait Islander Traditional Owners and Elders of the lands and seas on which we meet, live, learn and work.

We acknowledge those of the past, the ancestors whose strength has nurtured this land and its people, and who have passed on their wisdom. We acknowledge those of the present for their leadership and ongoing effort to protect and promote Aboriginal and Torres Strait Islander peoples and cultures. We acknowledge those of the future, the Elders not yet born, who will inherit the legacy of our efforts.

We recognise it is our collective efforts, and responsibility as individuals, communities and governments, to ensure equality, recognition and advancement of Aboriginal and Torres Strait Islander Queenslanders across all aspects of society and everyday life.

About this handbook

This handbook provides information for members of a residential park Home Owners Committee (HOC) or those thinking of starting one.

It has been developed by the Queensland Government in conjunction with industry, home owner and advocacy groups to help you operate and participate in a Home Owners Committee.

The Department of Communities, Housing and Digital Economy (the department) administers the *Manufactured Homes (Residential Parks) Act 2003 (the Act)* and is responsible for ensuring residential parks and park owners meet required standards and operate in accordance with the Act.

Whilst the information in this handbook provides guidance, it is general information only, and is not legal or any other advice. Information within this handbook should not be relied upon as advice, including but not limited to legal advice and may not be applicable to all circumstances.

The contents of this handbook may cease to be relevant where changes are made to the legislation.

The department is grateful for the contributions from members of the Manufactured Homes (Residential Parks) Working Group in compiling this publication.



Alliance of
Manufactured Home
Owners Inc



Associated
Residential Parks
Queensland



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Defining a Home Owners Committee

What is a Home Owners Committee (HOC)?

A HOC is a group of home owners in a residential park who are elected by, and represent, the home owners in that park in dealings with the park owner.

Home owners in a residential park have a right to establish one HOC under the Act and this right cannot be restricted by the park owner.

HOC members are volunteers.

What is the purpose of a HOC?

The purpose of a HOC is to deal with the park owner on behalf of home owners concerning:

- the day-to-day running of the park
- any complaints or proposals about the operation of the park raised by home owners.

Under the Act, a park owner must not restrict a HOC from performing its function.

In performing its functions, the HOC can:

- provide a voice for all home owners in dealing with the owners of the park
- assist home owners with the presentation of submissions for any request, proposal, or complaint to the park owner
- work collaboratively with, and in the best interests of, all home owners in the park
- promote communication between home owners and the park owner.

If the HOC gives notice to the park owner of any complaint or proposal about the operation of the park, the park owner must provide a written response to that notice within 21 days of receiving it.

How does a HOC operate?

A HOC may be formed by an election conducted among the home owners. The Act does not specify how many home owners are required to vote to elect the HOC.

Only one HOC may be established for a residential park.

A constitution may be adopted by a majority of home owners to govern the performance of the HOC's functions. The constitution cannot be inconsistent with the Act. Once made, the HOC must comply with its constitution.

The constitution may only be changed by special resolution at a meeting of home owners. A special resolution requires a three-quarter majority of the home owners' votes.

The HOC can, subject to the constitution, determine its own procedures to support how it operates, and form subcommittees and decide each subcommittee's procedures.

The HOC may wish to consider holding regular structured meetings with all home owners, to allow discussion on matters of concern relating to the running of the park.

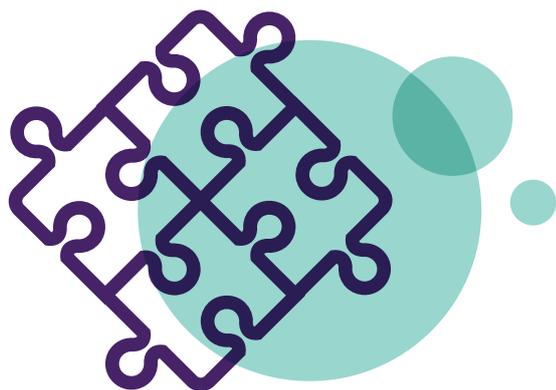
The HOC should operate with core principles and values that enable the HOC to carry out its functions. This may include principles and values which facilitate a HOC that is approachable to home owners and builds a good relationship with the park owner.

Where the HOC is a party to a dispute with the park owner in respect of a matter relating to the day-to-day operation of a residential park, referred to as a residential park dispute, the HOC can initiate a dispute resolution process as specified in Part 17 of the Act.

What makes a successful HOC?

A successful HOC is one that:

- works together with agreed values, principles, and objectives
- understands the role of each HOC member and the functions of the HOC
- is effective in its decision making
- represents the whole home owner community
- has the support of the home owner community
- establishes a strong and positive relationship with the park owner and manager
- understands the legislation
- keeps good and accurate records
- acts with integrity
- meets regularly with a structured agenda, and
- provides regular updates to the home owner community, informing them of changes in legislation and the outcomes of meetings with park owner and manager.



Working with the park owner and home owners

Dealing with the park owner is an important function of the HOC. Working with the park owner strengthens residential park communities and provides better outcomes for home owners.

Some HOCs establish protocols with the park owner about how members will conduct themselves to ensure they can perform their functions and maintain clear objectives.

When the HOC works well with the park owner and home owners it promotes:

- effective relationships and communication methods
- successful results
- home-owner engagement, including raising matters of issue or proposals with the HOC
- working with other interest groups within the residential park community (i.e. social clubs)
- the functions of the HOC.

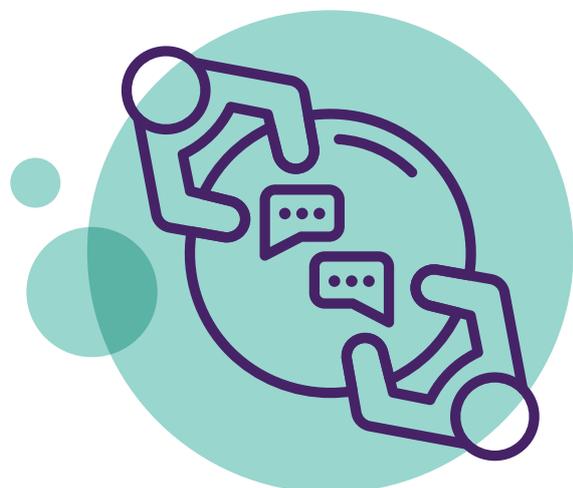
Quorum of HOC Members

A quorum is the minimum number of eligible people who must be present at a meeting in order to conduct business in the name of the group.

The Act does not provide guidance or requirements for a quorum of HOC members. However, this will generally be established in the constitution for the HOC.

Good practice suggests that an appropriate quorum may be a requirement that 50 per cent or 50 per cent plus one of members elected to the HOC are present for any meeting.

Maximising use of technology through virtual meetings can help achieve regular and high attendance rates to achieve a quorum.



HOC member's roles

The Act does not provide guidance or requirements for how many members there should be in the HOC, or what roles they should serve. This will generally be established in the constitution for the HOC and may depend on the size of the park. In many residential parks, membership of the HOC is at least 6 members and includes the roles outlined below.

President

The President will generally be responsible for, and ideally will have some experience in, matters such as:

- presiding over meetings and ensuring the HOC is prepared for the meeting (e.g. details of home owner requests)
- calling HOC meetings and home owners' meetings if not called by the Secretary
- ensuring balance and providing the opportunity for all HOC members to contribute
- working with the Secretary to ensure relevant communication and information is distributed to all home owners.

Secretary

The Secretary will generally be responsible for, and ideally will have some experience in, matters such as:

- keeping of membership and official records relating to the HOC including detailing the actions of the HOC
- working closely with the President in the calling of HOC and home owners meetings, distributing agendas and preparing meeting minutes
- preparing and delivering formal and informal communication to the home owners on behalf of the HOC in a timely manner
- ensure that any regulatory requirements are complied with, for example, where the HOC is an incorporated association under the *Incorporated Associations Act 1981*.

Treasurer

The Treasurer will generally be responsible for, and ideally will have some experience in:

- bookkeeping for HOC funds
- managing funds within budget and paying invoices in a timely manner and obtaining any necessary HOC approval for any financial expenditure
- preparing financial reports for delivery to the HOC and home owners
- coordinating the auditing of financial records.



Forming a HOC

Selecting HOC members and identifying roles

A HOC can contribute to fostering community spirit and engagement. The HOC can also draw upon the skills and talents of home owners. Importantly, a HOC gives home owners a united voice in dealings with the park owner.

When electing HOC members, home owners may wish to consider including a wide range of people with a diverse experiences and perspectives, this could include electing persons with a variety of:

- skillsets
- commitment and availability
- language and cultural diversity
- gender balance
- principles and values.

A member of the HOC can only be appointed for one year but may be re-elected. A member of the HOC may also be removed at any time, by special resolution at a meeting of the home owners.

Develop and adhere to a constitution

If a HOC is established, a majority of home owners may adopt a constitution governing the HOC's performance of its functions.

The constitution must be consistent with the Act and must include any information prescribed under the *Manufactured Homes (Residential Parks) Regulation 2017*.

The constitution is binding on all HOC members, and it can only be amended by a special resolution at a general meeting of all home owners.

Matters that the constitution should address include:

- membership – election of home owners as members of the HOC
- the objective and purpose of the HOC – what the HOC aims to achieve
- voting rights – who can vote and how voting occurs
- a description of the different types of meetings, for example – Annual General Meeting (AGM), Special General Meeting (SGM), HOC Meetings
- administration – agenda and minutes
- standards of behaviour

- how the constitution may be altered
- transparency
- dissolving the HOC.

Failure by a member to meet these standards may lead to the home owners passing a special resolution to remove the member from the HOC if the behaviour is not remedied.

Terms of Reference

The objectives of the HOC and the scope within which the HOC is intended to operate may be included in Terms of Reference, which support decision making and help to further define the conduct and values of the HOC members.

Terms of Reference are not as formal as a constitution and are generally easier for a HOC to change and adapt over time depending on how the constitution allows for this. They are often useful for setting guidelines for less fundamental principles and establishing social protocols for how HOC members would like to interact with each other.

Establishing committee rules

Establishing committee rules within the HOC constitution will support the successful operation of the HOC. The rules could cover matters like the following:

- conduct of HOC meetings
- role of members including President, Secretary and Treasurer
- code of conduct – be respectful, fair, and reasonable
- confidentiality
- conflicts of interest.



Incorporated Associations

Home owners may also wish to consider whether it is appropriate to incorporate under the *Associations Incorporation Act 1981*.

You can find out more by searching 'incorporated associations' online at www.qld.gov.au/law/

Role and purpose of other groups in your park (social clubs, working groups)

Many communities in residential parks have established other groups to manage certain elements linked to their community.

Social club

The purpose of the social club is to take charge of planning community events to help connect home owners within a residential park.

Social club activities can include:

- health and fitness classes
- social gathering
- festival events.

Residential parks often have social clubs that seek to ensure that home owners can meet their neighbours. For instance, the social club can host a welcome party to introduce new home owners to the community. They also organise fixed events such as holiday parties and festivals.

However, the Act makes no provision for a social club or for a HOC to be responsible for social activities as part of its functions. As such, a social club that is established for the park is not the same as the HOC, nor does it exercise the same functions, even if it has the same members. Most HOC's and other groups within a park choose to work collaboratively.

Social clubs may also wish to adopt some of the documents outlined in this document, such as the Terms of Reference in relation to meetings and operating procedures.

Park Liaison Committee

Section 80 of the Act provides for a particular kind of committee of home owners and the park owner to be temporarily formed to consider proposals to change park rules where a specified number of home owners have objected to the proposal. This committee is called a Park Liaison Committee.

The Park Liaison Committee is separate and distinct from the HOC and is not the responsibility of the HOC.

Operating a HOC

A good operating rhythm for a HOC is to ensure there are regular and structured HOC meetings with a suggested minimum of four meetings per year.

The following outlines some key areas to ensure that the HOC has a good operating rhythm that makes it efficient and effective.

How to have effective meetings

It is important that HOC meetings are effective, so that home owners get the best outcomes and that the time and effort of the committee is not wasted.

The park owner can attend HOC meetings if invited by the HOC. The park owner may, for example, be invited to address specific issues of concern.

It is suggested that a HOC develop and implement:

- a meeting schedule
- standard agenda items
- a record of minutes, which can be signed by relevant parties e.g. President of HOC and park owner when in attendance.

For HOCs that incorporate under the *Associations Incorporation Act 1981*, information on holding meetings and recording minutes can be found by searching 'meeting procedures' at www.qld.gov.au/law.



Effective decision making

It is good practice to take a thorough approach and collate all the required information to allow the HOC to make informed decisions.

Key steps in an effective decision-making process may include:

- identifying the issue being considered, and the need to decide
- gathering relevant information
- identifying the alternatives
- weighing available evidence
- choosing among alternatives
- implementing the decision
- reviewing the effectiveness of the decision and its consequences.

Types of meetings

The HOC's constitution will detail the types of HOC meetings to be held, which may include:

- annual general meeting (an annual general meeting is a meeting of all the members of the HOC which must be held once during each calendar year)
- special general meetings (are general meetings (other than the annual general meeting) and are often called to deal with business that cannot wait until the annual general meeting)
- monthly/quarterly meetings

How HOC members can be removed

A HOC member can only be removed by special resolution at a meeting of the home owners. This may be at a regular meeting or a special general meeting. The approach should be in line with a HOC's constitution and any information being disclosed outlining the grounds upon which the member is to be removed should comply with any confidentiality obligations.

Distribution and communication with home owners

Good communication supports keeping a community connected. The HOC can issue informal and formal communication to home owners.

Formal communication

Formal communication can include the minutes of meetings and annual reports.

The HOC should seek to ensure communication about the minutes of HOC meetings are distributed to home owners in a timely manner. Good practice suggests within 21 days of the meeting being held.

The Act does not prescribe standards or requirements for the format of meeting minutes; however it is recommended that minutes include the following:

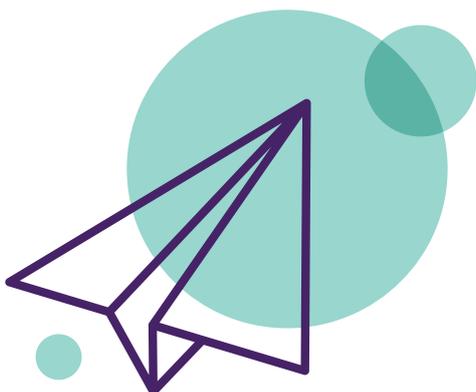
- the date, time and place of the meeting
- the names of persons absent and present, including invitees and details of the capacity in which they attended the meeting
- issues discussed and how each issue was decided or dealt with including any votes
- details of any correspondence, reports, notices or other documents tabled.

To ensure the accuracy of minutes, they may be presented at the next HOC meeting for confirmation. If the minutes are accepted and confirmed, the President of the HOC could sign the minutes to confirm they are accurate.

For HOCs that incorporate under the *Associations Incorporation Act 1981*, information on recording minutes can be found by searching 'meeting procedures' at www.qld.gov.au/law.

Informal communication

Informal communication can be a good way to keep home owners updated and could include weekly or monthly newsletters and general updates.



Meetings during public health restrictions

Any HOC meetings that are due to occur when there are Public Health Orders in place must be in accordance with those orders.

Examples of possible restrictions may include:

- social distancing – staying 1.5 metres apart
- wearing masks when indoors or where you're unable to maintain distance
- occupant density rules.

It should be noted that public health related restrictions are subject to change and all members should ensure they are familiar with the current restrictions to ensure compliance and keeping everyone safe.

Resourcing – technology/support

HOCs should be able to use the communal facilities within their residential park to hold their meetings and bring the community together at annual general meetings.

Advances in technology allows for HOCs to come together virtually through various communication platforms such as: Zoom, Microsoft Teams and FaceTime.

Technology is also a great way to stay connected and promote the work of the HOC. This can be achieved through emails or websites.

HOCs should consider virtual ways to connect. This allows greater participation and inclusion.

Confidentiality

The HOC may have a duty to deal with matters relating to a home owner in a confidential manner, for example, this duty may arise if information of a confidential nature is provided to the HOC on a confidential basis.

In addition, any records that are held on file for the HOC must be treated sensitively and should be held securely. This relates to any confidential information whether it is verbal, electronic or in writing.

The HOC's constitution should reflect the confidentiality requirements for all HOC members.

Example

Minutes can be shared and they provide notification of the final decision that was achieved, but usually the discussion that got the HOC to that point should not be shared.

Handling disputes

HOC vs Park owner

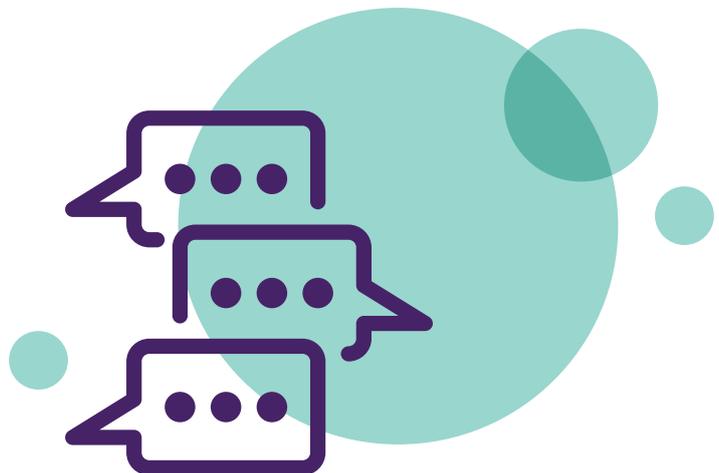
If a dispute arises about a matter relating to the day-to-day running or operation of a residential park between the park owner and the HOC, this is referred to as a residential park dispute under the Act and its resolution may be dealt with between the parties or under the Act.

Informal dispute resolution

If a dispute arises, the parties should first explore discussing and negotiating the issue.

Things to consider in these types of discussion include the following:

- Disputes can often be caused by a misunderstanding or a personal perception of an event. Consider: is this a factual issue or an emotional response?
- Being clear on what has occurred and what the key issues of the dispute are.
- What are the facts/evidence/proof that the HOC can collate and present to support its position?
- Are there any residual/background circumstances that may have led to this issue?
- Try to evaluate the situation from the other party's perspective, consider what their issues may be and what they may want to achieve.
- Think about what the HOC wants to achieve and what it can realistically expect to achieve. Will the park owner think the desired outcome is reasonable?
- Make clear, written notes detailing the discussion and outcomes, and if possible, prepare an agreed record of the discussion at the end of the meeting.



Formal dispute resolution

If through informal conversation and negotiation the HOC is unable to resolve the dispute, a formal dispute resolution process can be commenced under the Act for disputes that are considered 'residential park disputes' under the Act.

HOCs seeking to engage in dispute resolution for residential park disputes under the Act should carefully review the requirements and processes set out in Part 17 of the Act. The below description of dispute resolution processes does not constitute legal advice, nor should it be relied upon as legal advice.

Step 1: Negotiation



Involves the following steps by one party to the dispute:

- 1) Giving written notice to the other party that sets out the matter in dispute and nominates a time on a stated day and place for a meeting (dispute negotiation notice).

The dispute negotiation notice may be in the form of a letter, or the Manufactured Homes Form 11 Dispute Negotiation Notice available from on **www.qld.gov.au/manufacturedhomes**.

- 2) Giving the party at least 14 days' but not more than 28 days' notice of the meeting.

In responding to a dispute letter, or Manufactured Homes *Form 11 Dispute Negotiation Notice*, the responding party must:

- Provide a written response within 7 days of receiving the notice agreeing to meet the first party.
- Confirm the time and place in the response; or suggest another time and/or place if the original time or place does not suit, provided the other day or time is within 7 days after the nominated day and time.

Both parties to the residential park dispute have an obligation to meet and try to resolve the dispute at the nominated time, or within 7 days after the nominated day and time. Parties may agree to meet multiple times to try to resolve the dispute by negotiation.



Step 2: Mediation

If the parties have followed the negotiation process in section 107 of the Act to resolve a residential park dispute but cannot resolve the dispute through negotiation, they can apply to the registrar at the Queensland Civil and Administrative Tribunal (QCAT) to have the matter referred to mediation.

Within 14 days of receiving an application, the registrar will appoint a mediator who will organise a mediation conference with the parties to the dispute.

Mediation conferences are private but may involve other persons where the mediator is satisfied the person has a sufficient interest in the resolution of the dispute.

There are some limited circumstances in relation to proposals for a change in park rules for which the process in section 107 is not required to be undertaken for mediation to proceed, however these matters are not likely to involve the HOC.

HOCs seeking to engage in dispute resolution for residential park disputes under the Act should carefully review the requirements and processes set out in Part 17 of the Act.

Visit www.qcat.qld.gov.au to find out more about mediation.



Step 3: QCAT Hearing

Either party to the dispute can apply to QCAT for a hearing if:

- the parties cannot reach a mediation agreement
- one party does not attend or withdraws from mediation
- the parties cannot settle the dispute within four months of its referral for mediation
- one party claims the other has not complied with the mediation agreement within the specified time (or within two months of the agreement being signed if no time is specified)

The tribunal may make an order as authorised by the Act, or otherwise as it considers appropriate to resolve the dispute.

For more information

Regulatory Services

Department of Communities, Housing and Digital Economy

Regulatory Services administers the *Manufactured Homes (Residential Parks) Act 2003*.

You can contact Regulatory Services on (07) 3013 2666 or email

RegulatoryServices@chde.qld.gov.au or via their website

www.chde.qld.gov.au/regulatoryservices.

The *Manufactured Homes (Residential Parks) Act 2003* and the *Manufactured Homes (Residential Parks) Regulation 2017* are available at **www.legislation.qld.gov.au**.

Alliance of Manufactured Home Owners

You can contact the Alliance of Manufactured Home Owners on 0418 527 041

or email **amhocontact@gmail.com** or via their website **www.amho.com.au**.

Associated Residential Parks Queensland

You can contact the Associated Residential Parks Queensland on (07) 3040 2344

or email **secretary@arpq.org.au** or via their website **www.arpq.org.au**.

Caravanning Queensland

You can contact Caravanning Queensland on (07) 3862 1833 or via their website

www.caravanqld.com.au.

Manufactured Home Owners Association

You can contact the Manufactured Home Owners Association at

mhoa.advice@gmail.com or via their website **www.mhoa.com.au**.

Urban Development Institute of Australia

You can contact the Urban Development Institute of Australia on (07) 3229 1589 or email

udia@udiaqld.com.au or via their website **www.udiaqld.com.au**.

Other helpful contacts

Queensland Retirement Village and Park Advice Service

Caxton Legal Centre

The Queensland Retirement Village and Park Advice Service (QRVPAS) is a free legal service that aims to help residents understand their rights and responsibilities under the *Manufactured Homes (Residential Parks) Act 2003*, obtain the knowledge and skills to present their interests to park operators and resolve disputes and have increased access to appropriate legal information and advice.

You can contact the Queensland Retirement Village and Park Advice Service on (07) 3214 6333 or via their website **caxton.org.au**.

Queensland Civil and Administrative Tribunal

This independent decision making body helps resolve disputes and reviews administrative decisions by government.

You can contact the Queensland Civil and Administrative Tribunal (QCAT) on 1300 753 228 or email **enquiries@qcat.qld.gov.au** or via their website **www.qcat.qld.gov.au**.

Office of Fair Trading

You can contact the Office of Fair Trading on 13GOV (13 74 68) or email **Brisbane.OFT@justice.qld.gov.au**.



www.qld.gov.au/manufacturedhomes

