

Dispute Resolution – board policy

1. Scope

This policy sets out the board’s procedures for resolving disputes between board members.

2. Key principles

- **Obligations:** the board acts in accordance with its obligations and with good governance practice (see item 9).
- **Public interest:** disputes are avoided where possible. All disputes are resolved in the public interest.
- **Respect, courtesy and balance:** board members treat one another with respect and courtesy. They participate in board discussions in an active and constructive manner. There is a balanced opportunity for each board member to ask questions, express ideas, and offer opinions.
- **Good faith:** board members who are in dispute act in good faith to resolve the dispute as soon as possible.

3. Definition of a dispute

Not included

A difference of opinion between board members in relation to a proposed decision (e.g. strategic, business, policy, etc.) is not a ‘dispute’. It is the normal difference of views that the board talks through together in a considered, courteous and constructive manner before voting to make its decision, in accordance with the board’s policy on *Meetings and Decisions*.

Included

For the purposes of this policy, a ‘dispute’ exists if:

- two or more board members have difficulty working together (e.g. due to a conflict of personalities or ideological differences); and
- the situation is unduly affecting the ability of a board member, or the board collectively, to perform their duties in an effective and efficient manner.

Where appropriate, the definition of a dispute may be extended to include subcommittee members who are not board members.

4. Duty to act in good faith

Board members will avoid disputes, where possible. If a dispute arises:

- the board members in dispute (the parties) will act in good faith to resolve the dispute as soon as possible in the public interest (the best interests of the agency);
- the chair will actively guide the parties towards resolution of the dispute; and

- the other board members will support this process.¹

5. Informal resolution

It is preferable for disputes to be resolved on an informal basis. Acting in good faith, the parties will make a reasonable, thorough and conscientious effort to do so, under the guidance of the chair.

During this process, if the chair is of the view that the board should be formally notified of the existence of the dispute (e.g. because it may pose a major risk to the effective operation of the agency), he or she will place the matter on the agenda of the next board meeting for noting and/or monitoring. This does not interrupt the informal resolution process.

6. Notice of an unresolved dispute

If a dispute cannot be resolved on an informal basis, the chair will place the matter on the agenda of the next board meeting. At the meeting, the board will invoke the formal mediation process if it is satisfied that:

- a dispute exists which cannot be resolved on an informal basis; and
- it is in the public interest to do so.

7. Formal mediation process

Where the board invokes the formal mediation process:

- An independent, suitably qualified mediator will be appointed who is acceptable to all the parties.
- If the parties cannot agree on a mediator:

‘The dispute will be referred to the [Dispute Settlement Centre of Victoria](#) (Department of Justice and Regulation). The Centre will be requested to organise a mediation using its mediators, in consultation with the parties and the chair. If the Centre advises that the matter is not suitable for its services, the Department of Environment, Land, Water and Planning (DELWP) will be contacted for advice.’]
- The parties will co-operate with the mediator and provide all reasonable assistance. They will actively work in good faith to resolve the dispute.
- If the dispute is resolved, unless good reason exists otherwise, the outcome will be recorded in writing by the mediator and signed by the parties, who will each receive a copy and consent to the chair receiving one.
- If the dispute cannot be resolved and is continuing to unduly affect the operation of the board, DELWP will be contacted for advice.

8. Major risk

If at any time a dispute poses a major risk (existing or emerging) to the effective operation of the agency, the Minister and the Secretary of DELWP will be notified.²

9. Obligations and good practice

Disputes between board members will be resolved in accordance with the board’s obligations and with good public sector governance practice, including:

- the establishing Act, being the *Environmental Protection Act 1970*;

¹ If the chair is a party to the dispute, this role is undertaken by a board member nominated by the board.

² Consistent with section 81(1)(b) of the Public Administration Act 2004 (PAA)

- the public sector values in section 7 of the *Public Administration Act 2004* (PAA);³
- the ‘duties of directors’ (board members) in section 79 of the PAA;
- the requirement in section 81(1)(d)(iii) of the PAA to ensure that adequate procedures are in place for resolving any disputes that arise between board members;
- the [Directors’ Code of Conduct](#) issued by the Victorian Public Sector Commission;
- government policy;
- any directions, guidelines and/or statements of obligation or expectation issued by the Minister; and
- all other laws and obligations that bind the agency.

10. Regular review of this policy

The board will review this policy on an annual basis or more frequently, if required, to keep up-to-date with changes to laws, government policy, etc.

11. Related policies

- Meetings and Decisions
- Code of Conduct.

12. Further information

On Board (www.delwp.vic.gov.au/onboard), in particular, the [Dispute resolution](#) support module, which has a range of resources, including guidance notes, direct links to the topic on the Victorian Public Sector Commission website, etc.

³ The public sector values are: integrity, impartiality, accountability, respect, responsiveness, human rights, and leadership.