Office of the Commissioner for Body Corporate and Community Management

Practice Direction 26
False or misleading information or documents

This Practice Direction is issued pursuant to *section 233* of the *Body Corporate and Community Management Act 1997*. 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.

1. The integrity of the dispute resolution processes provided by the Commissioner's Office relies upon the truthfulness and accuracy of information and documents supplied by the parties.

2. The legislation protects the integrity of the dispute resolution process by providing that a person who submits false or misleading information or documents to the Commissioner or an adjudicator commits an offence [Act, *sections 297* and *298].*

3. These offences may apply to an applicant, a person making a submission, or any other person required, or invited, to provide information or documents to the Commissioner or an adjudicator.

4. In regard to false or misleading information, the relevant considerations are that the statement made by the person was false or misleading to the person's knowledge, and that the statement was false or misleading in a material particular.

5. In regard to false or misleading documents, the relevant consideration is that the document contained information that was false or misleading to the person's knowledge. There is no offence if the person, when giving the document, informs the Commissioner or adjudicator to the best of the person's ability how the document is false or misleading, and gives the correct information if the person has or can reasonably obtain the correct information.

6. Allegations that information or documents submitted in relation to a dispute resolution application are false or misleading may be considered by an adjudicator when determining the application, including in regard to the weight to be given to the disputed evidence.

7. The Commissioner and adjudicators have no authority to impose a penalty in regard to false or misleading information or documents.

8. The Commissioner and adjudicators have no authority to prosecute a complaint in regard to false or misleading information or documents.

9.   Alternatively, a party to a dispute may file a private complaint in the Magistrates Court in regard to false or misleading information or documents, pursuant to the *Justices Act 1886*. The *Justices Act 1886* provides that a complaint must be commenced in the appropriate Court jurisdiction within one year from the time the matter of the complaint arose.

Chris Irons
COMMISSIONER

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