



# Otway Coast Committee

## Dispute Resolution

### Committee of Management Policy

## 1. Scope

This policy sets out the Otway Coast Committee's procedures for resolving disputes between Committee members.

## 2. Key principles

The key principles are:

- a) **Relevant obligations:** the Committee operates in accordance with all relevant obligations.
- b) **Respect, courtesy, and balance:** Committee members treat one another with respect and courtesy. They participate in Committee discussions in an active and constructive manner. There is a balanced opportunity for each Committee member to ask questions, express ideas, and offer opinions.
- c) **Public interest:** the Committee acts in the public interest at all times, collectively and individually. Disputes are avoided where possible. If a dispute occurs, it is resolved as soon as possible in the public interest.
- d) **Good faith:** Committee members who are in dispute make a reasonable, thorough, and conscientious effort to resolve the dispute in an informal manner. They act in good faith throughout the dispute resolution process.

## 3. Relevant obligations

Disputes between Committee members will be resolved in accordance with all relevant obligations and with good public sector governance practice, including:

- the establishing Act, being the Crown Lands (Reserves) Act 1978;

- the public sector values in section 7 of the *Public Administration Act* 2004 ('PAA');<sup>1</sup>
- 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 Committee members;
- the Directors Code of Conduct<sup>2</sup> and similar requirements in section 79 of the PAA and in the common law (e.g. to act honestly and legally);
- any directions, guidelines and/or statements of obligation or expectation issued by the Minister;
- government policy; and
- all other laws and obligations that bind the agency.

#### 4. Definition of a dispute

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

- two or more Committee 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 Committee member, or the Committee collectively, to perform their duties in an effective and efficient manner.

A difference of opinion in relation to a strategic, business, policy, or other decision that is to be made by the Committee is not a dispute and should be resolved in accordance with the Committee's policy on *Meetings and Decision-making*. The definition of a dispute may be extended to cover subcommittee members who are not Committee members, to the extent that the Committee determines is in the public interest.

#### 5. Avoiding and resolving disputes

Committee members will treat one another with respect and courtesy and will perform their duties in a constructive manner, in accordance with the Committee's policy on *Meetings and Decision-making*. Disputes will be avoided where possible. If a dispute arises, the parties will act in **good faith** to resolve it as soon as possible in the public interest.

#### 6. Informal resolution must be attempted

If a dispute arises, the Committee members in dispute (the '**parties**') will make a **reasonable, thorough, and conscientious** attempt to resolve it on an informal basis.

The chair will actively guide the parties towards informal resolution of the dispute.<sup>3</sup> Other board members will assist, where required.

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<sup>1</sup> The public sector values are: integrity, impartiality, accountability, respect, responsiveness, human rights, and leadership.

<sup>2</sup> Issued by Victoria's Public Sector Standards Commissioner pursuant to section 63 of the PAA.

<sup>3</sup> If the chair is a party to the dispute, this role will be undertaken by the deputy chair or other member nominated by the board.

### 6.1 Noting the existence of a dispute

Where attempts to resolve a dispute on an informal basis are ongoing but the chair is of the view that the Committee should be notified of the existence of the dispute (e.g. because it may pose a major risk to the effective operation of the Committee), the matter will be placed on the agenda of the next Committee meeting for noting and/or monitoring.

## 7. Notice of an unresolved dispute

If a reasonable, thorough, and conscientious attempt to resolve a dispute on an informal basis is not successful, the chair will place the matter on the agenda of the next board meeting. At the meeting, the Committee will invoke the **formal** dispute resolution process if it is satisfied that:

- a) a dispute exists;
- b) proper and sufficient effort (i.e. a reasonable, thorough, and conscientious attempt) has failed to resolve the dispute on an informal basis; and
- c) the formal resolution process will be completed before the term of appointment of a party to the dispute expires or otherwise terminates and thereby ends the dispute.

## 8. Formal dispute resolution process

Where the Committee decides to invoke the formal dispute resolution 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), which will organise a mediation using its mediators, in consultation with the parties and the Chair. If for any reason the Dispute Settlement Centre of Victoria is of the opinion that the matter is not suitable for mediation using its mediators, DEPI will be contacted for advice.
- The parties will co-operate with the mediator, provide all reasonable assistance, and otherwise actively work in **good faith** to resolve the dispute.
- The chair will actively support the formal dispute resolution process. Other Committee members will support the process and, where appropriate, actively contribute to it.
- Where a 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 will consent to the chair receiving a copy.
- If the dispute cannot be resolved and it is continuing to unduly affect the operation of the agency, DEPI will be contacted for advice.

## 9. Notification to the Minister and the Secretary

Consistent with section 81(1)(b) of the PAA, if a dispute poses a major risk (existing or emerging) to the effective operation of the agency, the Minister and the Secretary of DEPI will be notified of the risk and of the management systems that are in place to address the risk.

## 10. Regular review of this policy

The Committee 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. This policy was adopted December 2013, and last reviewed November 2014.

## 11. Related policies

- Meetings and Decision-making
- Code of Conduct.

## 12. Further information

**On Board** ([www.dse.vic.gov.au/onboard](http://www.dse.vic.gov.au/onboard)), in particular, the *Dispute Resolution* support module, which has a range of resources, such as direct links to the topic on the State Services Authority website ([www.ssa.vic.gov.au](http://www.ssa.vic.gov.au)).