



Government of **Western Australia**
Department of **Commerce**
Consumer Protection

Commissioner's guidelines Park Liaison Committees

It is recommended that the park operator and long-stay tenants read these guidelines before establishing a Park Liaison Committee.



IMPORTANT TO NOTE:

These are guidelines only and may be varied to suit the circumstances in individual parks.

The selection of the representatives on the PLC and the procedures of the PLC cannot override the provisions of the *Residential Parks (Long-stay Tenants) Act 2006* and *Residential Parks (Long-stay Tenants) Regulations 2007*.

The PLC is a consultative and advisory body only, not a decision-making body, will only function properly if individual members undertake their roles in a spirit of co-operation.

The Consumer Protection Division of the Department of Commerce provides the following services:

- free general (not legal) advice, given to all parties in a long-stay tenancy agreement;
- free management of security bonds, located at our head office;
- conciliation of complaints, where possible, settlement; and
- prosecution of breaches of consumer law are undertaken.

When conciliating complaints and the parties are unable to reach a satisfactory outcome, it may be necessary for the matter to be settled by the State Administrative Tribunal (the Tribunal). Consumer Protection does not have the power to make orders or determinations, such as making a tenant or a park operator do something – only the Tribunal can do that.

This booklet can be obtained by calling the Consumer Protection Advice Line 1300 30 40 54 (for the cost of a local call state wide) or can be downloaded from our website: www.commerce.wa.gov.au/consumer-protection

The information provided in this publication explains and simplifies the law and should not be taken as a statement of law, for which you should refer to the *Residential Parks (Long-stay Tenants) Act (the Parks Act) 2006* and the *Residential Parks (Long-stay Tenants) Regulations 2007* (the Parks Regulations). Authorised versions of the Parks Act and Parks Regulations are available from the State Law Publisher. Contact details for the State Law Publisher are:

Address: 10 William Street, Perth Website: www.slp.wa.gov.au Phone: (08) 9426 0000

Disclaimer

The Department of Commerce has produced this guide as a summary of many of the rights and responsibilities of park operators and tenants under the *Residential Parks (Long-stay Tenants) Act 2006*. It should not be used as a substitute for the Parks Act or professional legal advice.

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1. Establishment of a Park Liaison Committee

The *Residential Parks (Long-stay Tenants) Act 2006* (the Parks Act) requires a park operator who runs a park with 20 or more long-stay sites to convene and maintain a Park Liaison Committee (the PLC).

The aim of the PLC is to assist the park operator in maintaining and improving:

- the lifestyle and wellbeing of long-stay tenants; and
- the park in general.

It is envisaged that through its procedures and workings, the PLC will provide a forum for constructive dialogue between tenants and management of a park.

To assist in achieving this outcome, park operators should ensure there are no impediments to the smooth functioning of the PLC in the park.

Remember:

The PLC is consultative and advisory in nature. The PLC is expected to work co-operatively to resolve issues wherever possible and make recommendations.

2. Purpose of the Commissioner's Guidelines

These guidelines are principally designed to assist park operators and tenants in establishing a PLC and to provide advice about:

- choosing tenant representatives for the PLC; and
- PLC procedures.

These guidelines are also designed to assist tenants in setting up a Residents' Committee. A Residents' Committee is not required by the Parks Act, but may assist tenants in presenting issues to the management of the park or their elected representatives of the PLC.

They are called the Commissioner's Guidelines because they are made by the Commissioner for Consumer Protection, who has general responsibility for the administration of the Parks Act and the Residential Parks (Long-stay Tenants) Regulations 2007 (the Parks Regulations).

Please note that the constitution and functioning of a PLC must comply with the requirements of the Parks Act and the Parks Regulations.

These guidelines assume that a PLC:

- has not voluntarily become an incorporated association;
- is not a separate legal entity that deals with money, including borrowing money, operating bank accounts and incurring debts;
- does not enter into contracts; and
- does not appoint agents.

A PLC should obtain independent advice if it is considering the above situations.

3. Functions of the Park Liaison Committee

In relation to the conduct of tenants and the ambience of parks, the functions of the PLC, as specified in the Parks Act and the Parks Regulations, are:

- to advise and consult with the park operator about preparing and amending park rules;
- to advise and consult with the park operator about developing guidelines for the standards of behaviour of park tenants;
- to advise and consult with the park operator about developing policies for the improvement and maintenance of the natural environment and amenities of the park; and
- to advise and consult with the park operator about the development of policies for the installation and maintenance of:
 - roads on the residential park;
 - street and other security lighting on the residential park; and
 - fencing within, and along the boundaries of, the residential park.

To help **avoid problems** and **maintain harmonious relationships** in the park, the functions of the PLC also include assisting the park operator to:

- ensure the park rules are observed by tenants;
- resolve disputes between park tenants; and
- resolve disputes between park tenants and the park operator.

4. Membership of the Park Liaison Committee

The Parks Act requires that the PLC be made up of:

- at least one representative of the park operator; and
- at least two tenant representatives, chosen by tenants.

Whatever the total number of members on the PLC, there must be more members who represent tenants than there are members who represent the park operator.

Remember:

There is no limit to the number of people who can be members of the PLC. However, large numbers of representatives may affect its smooth functioning.

5. Recipe for an effective Park Liaison Committee - the New South Wales experience

The New South Wales *Residential Parks Act 1998* has similar requirements to Western Australia's Parks Act in relation to Park Liaison Committees.

In a 2004 review of the *Residential Parks Act 1998* (NSW), respondents provided insight into the factors that contribute to an effective PLC, as listed below.

- Park operators welcome the opportunity for tenants to have some input into issues surrounding the operation of the park.
- Tenants are clear that the PLC is a forum for discussion on issues of mutual interest, but understand that the PLC is not a decision-making body.
- Parks also have a strong Residents' Committee, to provide tenants with a forum to raise matters with their representatives for discussion at the PLC.
- Park operators provide facilities for the PLC and Residents' Committee to meet, such as a recreation room.
- Park operators are not seen as interfering in the election of tenant representatives.
- The election of tenant representatives does not create different factions in parks.

6. Electing tenant representatives to the Park Liaison Committee - matters to consider

The PLC is not a decision-making body, but tenants can make a decision about who they want to represent them on the PLC. It is important for park operators to allow tenants to freely elect their representatives on the PLC.

In determining the election process, consideration will need to be given to the following matters.

6.1 Eligibility

Only people who are long-stay tenants of a park are eligible to:

- nominate for, and be elected as, a tenant representative on the PLC; and
- vote for the tenant representatives on the PLC.

A long-stay tenant is any person who has a right to occupy premises in a residential park under a long-stay agreement. Other occupants of the park, visitors, tourists and holidaymakers cannot take part in the election process.

6.2 Method of electing tenant representatives

The method that is to be used to elect tenant representatives to the PLC should be approved by a majority of eligible and interested tenants (ie a majority of the total number of eligible tenants in the park not just a majority of those who may take part in the vote).

This could be decided:

- at a meeting called to elect tenant representatives (provided enough tenants are present and a meeting is the chosen method);
- at a separate meeting or process;
- by way of written ballot; or
- by any other agreed method.

If the tenants agree to a process for electing their representatives by a method other than the calling of a meeting, such as voting in writing over a period of days or weeks, those responsible for co-ordinating the process should take reasonable precautions to ensure the security of votes cast. For example, a ballot box should not be left unattended and should be tamper proof.

6.3 Number of tenant representatives

Before an election is held, the number of tenant representatives to be on the PLC should be decided.

This will largely depend on the size of the park, but it is suggested that organisers be mindful in determining a workable number of tenant representatives.

Remember that the PLC must have more tenant representatives than park operator representatives and it may therefore be necessary to check if the park operator has determined the number of park operator representatives on the PLC.

It is recommended that a number of replacement representatives should also be chosen to fill at short notice a vacancy caused by the resignation, or short-term absence, of an active representative.

6.4 Calling for nominations

Before calling for nominations from eligible tenants for election to the PLC, it will be necessary to determine:

- if there is to be a limitation on the number of nominations to be accepted; or
- if tenants who currently hold office on a Residents' Committee are to be eligible for membership on the PLC.

Nominations should be seconded by another eligible tenant and agreed to by the candidate.

6.5 Voting system

It is recommended that a simple voting system be used to elect tenant representatives, such as a "first past the post" system. Preferential voting (where votes are cast for all candidates in order of preference) may also be used, but will be more complex.

The maximum number of votes a person may cast must be no more than the number of tenant positions available (including replacement representatives).

If the election is to be conducted by way of a secret ballot:

- candidates should be listed on the ballot paper in the order they are "drawn from a hat", unless otherwise agreed by a majority of the tenants;
- two people (from different sites) should be appointed to count the votes cast; and
- all ballot papers should be retained for at least **14 days** in case a recount is required for some reason (eg if an elected person subsequently changes their mind about being on the PLC).

6.6 Calling a meeting

If a meeting is the agreed method to elect tenant representatives to the PLC, a meeting should be called for this specific purpose by:

- a tenant or group of tenants (such as an existing Residents' Committee);
- the park operator (if the operator is satisfied that the tenants have not commenced any process for the election of the representatives); or
- an independent party or facilitator, such as:
 - a person from another park;
 - a representative from a local non-government organisation (eg a church minister);
 - a school principal; or
 - a representative from the local community legal centre.

The person who calls the meeting should give at least **seven days'** notice of the meeting. Notification of the meeting should be:

- posted on the park noticeboard; and
- given in writing to each long-stay tenant.

The meeting should be chaired by one of the tenants, but not a tenant who may be nominated for election to the PLC.

It may also be appropriate to select a secretary to take the minutes for the meeting.

The chairperson for the meeting is responsible for conducting the process in selecting tenant representatives and ensuring that all people at the meeting are validly present and eligible to vote.

The park operator is ultimately responsible for convening and maintaining the PLC and should therefore make every endeavour to provide the necessary resources for the conduct of a meeting, including a meeting room if available.

6.7 Quorum for meeting

It will be necessary to determine a quorum (that is, a minimum number of attendees) for the meeting, say one-third of all the sites occupied by long-stay tenants. If there are not enough attendees at the meeting, the process of calling further meetings should be followed until a meeting is held where a quorum is reached.

If the quorum originally selected proves impractical then the quorum could be reduced to enable the election process to proceed.

6.8 Appointment of proxies for selection of tenant representatives

A proxy is a person authorised to act for another. It may be appropriate for parks to consider providing for tenants who may not be able to attend the meeting to select tenant representatives onto a PLC, to nominate a proxy to vote on their behalf at the meeting.

A suggested form for the nomination of proxies is at **Appendix A**.

A nomination of a proxy should be valid for one meeting only. The long-stay tenant who nominates a proxy can revoke a nomination at any time before the meeting by writing to the Chairperson and to the nominated proxy.

Consideration should be given to limiting the number of proxies that can be held by one person. For example, it may be reasonable to require that people hold no more than five proxies per election or cannot hold proxies that provide a person with more than 10 per cent of the vote for a tenant representative, whichever is the smallest.

To be valid, a proxy form should be presented to the Chairperson at the start of the meeting for which the proxy has been appointed. A person nominated as a proxy for the selection of tenant representative on a PLC should not be a park operator, or a representative or close associate of a park operator.

6.9 Voting process

At the meeting, it will also be necessary to determine if the election of the tenant representatives is to be conducted by:

- a show of hands;
- a secret ballot; or
- another method.

6.10 Notification of membership of the Park Liaison Committee

If a meeting is the method used for electing tenant representatives to the PLC, the names of the successful candidates should be announced to the meeting as soon as the count has been completed.

Whatever the election method used, the person or those responsible for co-ordinating the election should, as soon as practicable, provide notification of the names of the elected people to:

- the park operator; and
- all the tenants, by placing a notice on the park notice board.

The park operator should notify the tenants of the names of the management representatives on the PLC by placing a notice on the park notice board no later than seven days after notification of the tenant representatives.

6.11 Term of office on a Park Liaison Committee

It is recommended that tenant representatives hold office for a limited period (ie one to two years). After that time, a tenant representative may be re-elected, but should not be eligible for re-election after serving two terms. This will ensure the renewal of the PLC.

Provision should be made for a tenant representative of the PLC to be replaced during their term of office in certain circumstances, such as where the representative:

- ceases to be a long-stay tenant of the park;
- dies;
- is unable to fulfil their duties due to illness;
- fails to attend a number of consecutive meetings (three is suggested) without a reasonable excuse; or
- is removed from office by a majority decision of the tenants.

6.12 Future elections

The person or those responsible for co-ordinating the initial election of tenant representatives to the PLC should have a system, such as a central diary, to record the expiry date of the term of all the elected tenant representatives.

The conduct of future elections may proceed in the same way as the initial election, or the tenants may devise a different system that better suits their particular circumstances.

For example, where replacement tenant representatives are not elected, or there is a high turnover of representatives, consideration could be given to devising a system that is less time consuming or onerous. However, care should always be taken to ensure that the elected representatives can adequately represent the views of all the tenants.

7. Procedures of a Park Liaison Committee

Once representatives of the PLC have been chosen, it is advisable for both management and long-stay tenants to determine its operating procedures, like a charter or constitution. The PLC should have regard for its functions as specified under the Parks Act. (For more information on these functions, see section 3 of these Guidelines).

The matters that should be considered for inclusion in the operating procedures are outlined below.

To ensure the PLC operates smoothly, representatives should undertake their roles in a spirit of co-operation.

If a park already convenes a PLC, the park operator should ensure that it complies with the requirements of the Parks Act.

Remember:

A PLC cannot exercise authority over park operators or tenants. The purpose of the PLC is to provide a forum for constructive communication between tenants and management.

7.1 Election of office holders

The PLC will need to consider the appointment of:

- a chairperson;
- a deputy chairperson; and
- a secretary to take the minutes of the meeting.

In doing so, consideration will need to be given to:

- the term of the appointment of these office holders; and
- whether these office holders should be elected representatives of the PLC or neutral parties (so that the elected representatives can concentrate solely on the issues raised at the meeting).

7.2 Calling of meetings

The PLC will need to consider how often and by whom meetings are to be called.

For example, should provision be made for a meeting to be called:

- on the request of a certain number or percentage of tenants;
- on the request of a Resident's Committee;
- on the request of the park operator;
- at regular intervals (eg every month or every three months); or
- in extraordinary or urgent circumstances?

The PLC should meet as often as is necessary and convenient to do so, but a minimum of three meetings per year is suggested.

7.3 Notice of meeting

The operating procedures should:

- specify how much notice the Chairperson must give to representatives of a meeting (eg seven days);
- specify how representatives will be notified about a meeting (eg by the placement of a notice on the park notice board or by written notification to each representative); and
- indicate what constitutes a quorum (ie the minimum number of representatives required to be present) before a meeting can proceed.

There should be an agenda attached with the notification of the meeting. A sample agenda is at **Appendix B**.

7.4 Conduct of meetings

It is advisable for the PLC meetings to be conducted reasonably formally, with representatives being given sufficient notice of meetings to attend and fully contribute to the meeting.

When a meeting is called, the items intended to be discussed at the meeting should be listed on the agenda paper, although the PLC should not be limited to discussing these matters only.

The minute secretary should record the matters discussed at a meeting, including any conclusions reached.

The minutes of a meeting should be distributed to committee members as soon as possible and ratified at the next meeting, before general circulation.

Consideration should also be given to establishing a process to scrutinise the minutes of all PLC meetings to ensure that matters that are confidential **are not circulated outside of the PLC**. In addition, representatives of the PLC should be mindful of discussing confidential matters raised at the PLC with other tenants.

7.5 Role of tenant representatives

It may be advisable for the tenant representatives to meet together before any PLC meeting to clarify their views, and those of other tenants, on issues that are listed for discussion at the meeting.

Despite the establishment of a PLC in a residential park, a separate Residents' Committee may continue to operate in the park if desired by the tenants.

Membership of a Residents' Committee may include all permanent tenants in a park, not just those tenants who are eligible for membership of the PLC.

Unlike a PLC, a Residents' Committee is not required by law to be established and contains only tenant representatives, but may be an appropriate forum for tenants to discuss matters of mutual interest before the issues are discussed with, or presented to, management or the PLC.

Tenants who are not members of the PLC, or a Residents' Committee, should always have the opportunity to place matters before the PLC through the tenant representatives or by writing to the Chairperson.

(For more information about a Residents' Committee, see section 8).

7.6 Dealing with disputes

A PLC may wish to consider establishing a dispute resolution process, which would be documented and made available to tenants, about how the PLC would deal with a dispute between:

- tenants; and
- tenants and the park operator.

In formulating the process, a PLC may consider:

- nominating suitable people as the point of first contact when a dispute occurs;
- documenting the situation and what the complainant believes is required to resolve it;
- informing the other party of the complaint;
- providing an opportunity for the parties to come together to resolve the issues;
- a method for obtaining and disseminating information between the parties that may be useful in resolving the dispute;
- ensuring that any matters raised, and any resolution reached, **remain confidential between all parties involved** in the dispute;
- informing any tenant who is a party to the dispute of available avenues for the further review of any matter that remains in dispute; and
- mechanisms for changing the dispute process and communicating these changes to tenants.

8. Formation of Residents' Committees

Residents' Committees are a mechanism for tenants to present issues to the management of the park or their elected representatives on the PLC.

There is no limit to the number of Residents' Committees that can be established, but it is recommended that parks establish only one Residents' Committee and form sub-committees to consider and report to the full Committee on particular matters, as required.

Remember:

The establishment of a Residents' Committee is optional.

8.1 Electing representatives for a Residents' Committee

If tenants decide to form a Residents' Committee, they may wish to adopt the process for electing tenant representatives to a PLC.

For more information, see section 6.2 of these Guidelines.

8.2 Procedures of Residents' Committees

The Residents' Committee may decide the procedures that will be adopted and form sub-committees, as required. In determining these procedures, tenants will need to consider similar matters to those referred to in section 7 in relation to the procedures of a PLC, such as:

- the election of office holders (section 7.1);
- the calling of meetings (ie how often and by whom) (section 7.2);
- how tenants will be notified about meetings (section 7.3); and
- the conduct of meetings (section 7.4).

Consideration will also have to be given to the attendance of other persons at Residents' Committee meetings, such as the PLC tenant representatives or all tenants.

It would be advisable for members of a Resident's Committee to meet with tenants before any PLC meeting to clarify their views, and those of other tenants, on issues to be raised at the PLC meeting.

Park operators are not obliged to provide resources for the conduct of Residents' Committee meetings. However, in the spirit of good communication, park operators are encouraged to provide such resources if approached by tenants to do so.

Remember:

Park operators are encouraged to support the formation and conduct of Residents' Committee meetings on the park, wherever possible.

9. Training of tenant representatives

A tenant representative on a PLC or a Residents' Committee may feel they require training in conducting meetings, including:

- the planning of meetings;
- preparing an agenda;
- effective chairing; and
- the recording of minutes.

For people with internet access, there are a number of websites dealing with this issue. In addition, training organisations and community groups offer practical and in some cases ongoing guidance in relation to these skills. It is advisable to check whether there are any costs involved in undertaking any training, as costs would need to be met by the individual.

The internet, word of mouth, library notice boards, yellow pages and community advice lines may be used to find and access such training.

10. Useful contacts

Department of Commerce

Gordon Stephenson
House 140 William Street
PERTH WA 6000

Advice Line: 1300 30 40 54

Website: www.commerce.wa.gov.au

Email: consumer@commerce.wa.gov.au

The Department of Commerce oversees the *Residential Parks (Long-stay Tenants) Act 2006* and provides advice and a conciliation service for residential park tenants.

Tenancy WA

2/18 Plain Street, East Perth WA 6004

Advice Line:

Metro: (08) 9221 0088

Country Free Call: 1800 621 888

Website: www.tenancywa.org.au

Tenancy WA is the specialist service which supports Tenant Advocates across WA in local community services and undertakes law reform and community legal education work.

The Community Legal Centres Association (WA)

Claisebrook Lotteries House
33 Moore Street
East Perth WA 6004

Phone Number: (08) 9221 9322
Website: www.communitylaw.net
Email: administrator_clca@clc.net.au

The Community Legal Centres Association of WA is the peak organisation representing 29 Community Legal Centres operating in Western Australia. It is committed to the principles of human rights, social justice and equity, including the rights of Western Australians to equity in access to legal services. The Association is a good starting point for identifying a community legal centre servicing your area.

The Department of Sport and Recreation (DSR)

246 Vincent Street
Leederville WA 6007

Telephone: (08) 9492 9700
Website: www.dsr.wa.gov.au
Email address: info@dsr.wa.gov.au

The DSR is the lead agency responsible for the implementation of government policy and initiatives in sport and recreation. The DSR website contains a step-by-step guide to starting up a club or association.

Volunteering Western Australia (VWA)

City West Lotteries House
2 Delhi Street
West Perth WA 6005

Telephone: (08) 9482 4333
Website: www.volunteeringwa.org.au
Email address: community@volunteer.org.au

As the peak body for volunteering in Western Australia, VWA seeks to build stronger communities through volunteering by taking a leadership role. This involves promotion and advocacy, development of partnerships, application of research to deliver innovative programs and provision of support to volunteers and organisations that involve volunteers through training and community education.

The Department of Local Government

Gordon Stephenson House
140 William Street
PERTH WA 6000

Telephone: (08) 6551 8700
Website: www.dlg.wa.gov.au
Email address: info@dlgc.wa.gov.au

Local councils are responsible for administering the *Caravan Parks and Camping Grounds Act 1995*, and oversee the licensing of caravan parks. The Department of Local Government is able to locate your local council and provide general advice on laws administered by local councils.

APPENDIX A

Form of appointment of proxy

Purpose of form: (1) To appoint a proxy to attend a meeting to choose tenant representatives on the Park Liaison Committee under the *Residential Parks (Long-stay Tenants) Act 2006*; or
(2) To appoint a proxy to attend a meeting to choose representatives of a Residents' Committee.

Note 1: This form cannot be used to appoint a park operator, representative or close associate of the park operator as proxy.

Note 2: This form is to be given to the Chairperson before the meeting is held.

Note 3: A long-stay tenant can revoke this appointment at any time before the meeting by written notice to the proxy and the Chairperson for the meeting.

Note 4: This form is a suggested form only and is not required to be used.

I, _____

(Insert name)

a tenant of

(Insert name of caravan or park home park)

appoint

(Insert name of proxy holder)

of

(Insert address of proxy holder)

as my proxy to vote for a tenant representative on the:

- Park Liaison Committee
- Residents' Committee

at the meeting of long-stay tenants on:

(Insert date of meeting)

(Signature of long-stay tenant)

(Date)

APPENDIX B

Park Liaison Committee - Agenda

Notice of meeting

A PLC meeting will be held in the Amenities Room on 3 August 2012 from 9am until 11am.

Agenda

1. Welcome
2. Apologies
3. Minutes of previous meeting
4. Matters arising
5. Correspondence
6. General business
7. Next meeting
8. Close

Notes

Department of Commerce

Consumer Protection Division

Advice Line 1300 30 40 54

(for the cost of a local call statewide)

8.30 – 5.00pm weekdays

Gordon Stephenson House
Level 2/140 William Street
Perth Western Australia 6000

Locked Bag 14 Cloisters Square
Western Australia 6850
Administration: (08) 6251 1400
Facsimile: (08) 6251 1401
National Relay Service: 13 36 77

Website: www.commerce.wa.gov.au

Email: consumer@commerce.wa.gov.au

Regional offices

Goldfields/Esperance	(08) 9026 3250
Great Southern	(08) 9842 8366
Kimberley	(08) 9191 8400
Mid-West	(08) 9920 9800
North-West	(08) 9185 0900
South-West	(08) 9722 2888



This publication is available on request in other formats to assist people with special needs.