

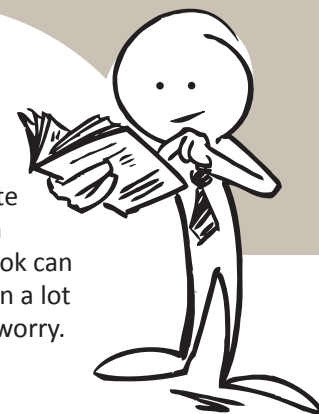


# Dispute resolution

Poorly handled disputes can significantly affect a corporation, its members and everyday business. Under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (CATSI Act) the Registrar can help corporations find a way to solve disagreements and problems (disputes).

## Look in your rule book

Having a good dispute resolution process in place in your rule book can save your corporation a lot of money, time and worry.



## What is a dispute?

A dispute is a disagreement between parties about how to run a corporation (corporate governance).

A dispute can be between:

- corporation members
- corporation members and directors
- corporation directors
- corporation directors and senior management
- a corporation and its creditors.

If a dispute is managed well the outcome can be very positive for the corporation. Poorly managed disputes can result in a corporation failing.

Managing a dispute requires good will and patience.



There are several things members and directors can do to manage a dispute before it gets out of hand. First of all, know the facts.

## Questions to ask

Before you contact the Office of the Registrar of Indigenous Corporations (ORIC) ask yourself these questions. They will help you prepare your case.

1. What exactly is the dispute about?
2. What does your rule book say about disputes? All members have access to the rule book and the minutes of meetings of members. (Usually the rule book and minutes are kept at the corporation's registered office or document access address.)
3. What is the dispute costing your corporation? The legal fees for a dispute can be very expensive and also cost the corporation its reputation (good name).
4. Do you think the corporation has tried to find a solution that is in the best interests of the members?
5. Have you tried to sit down with all the parties and talk about the matter? Could a misunderstanding be at the heart of the problem?
6. Is the dispute disrupting essential services? For example, is it affecting food supply or health services?
7. Do you have all the information you need? Directors have a right to the financial records of the corporation and a member can be given access by the directors or by a resolution of a meeting of members. Know your facts before acting on rumours.
8. If the corporation is receiving funding, can the dispute cause you to lose this funding?

## What ORIC can do



The Registrar can provide:

- an advisory opinion—a formal letter giving an opinion about the situation in dispute
- advice—by telephone, face-to-face or email to try to quickly fix issues that are not too complex
- conferencing—facilitated informal meetings of parties involved in the dispute
- ORIC staff—to attend corporation meetings as observers, to present information or provide advice.



## What ORIC cannot do



The Registrar cannot help with disputes that involve:

- employment, harassment or discrimination by a corporation
- the quality or lack of services provided by a corporation.

Exceptions to this ruling may occur if disputes indicate a more serious problem with how the corporation is run (internal governance).

If the Registrar cannot help with a dispute, the parties involved in the dispute may ask another agency for help or, if all the parties agree, the Registrar may refer the dispute to another agency. For example, employment-related disputes may be referred to the Workplace Ombudsman. Disputes that are about allegations of fraud or other criminal activity may be referred to the relevant state or territory police.

### Further information

If you would like any more information about ORIC's dispute resolution services, please see *Policy statement 22: Disputes involving corporations* at [oric.gov.au](http://oric.gov.au).

NOTE: This fact sheet is not a substitute for legal advice. It is intended as a quick overview of the topic. For more detail see the CATSI Act or consult a lawyer.

## What type of dispute is a priority?

ORIC cannot offer a complete dispute resolution service for each and every request. Priority is given when:

1. essential services are at risk
2. the corporation has stopped functioning because of the dispute
3. the corporation receives Australian Government funding
4. an Australian Government agency has requested the assistance
5. the corporation holds land
6. the corporation has a large number of members
7. there is a public interest in resolving the dispute.

## Why ORIC helps

ORIC supports the good governance of corporations. When a dispute is managed in the right way it can be seen as a preventative measure against corporate governance failure. That means a solution is found before too much harm is done to the corporation and its members.



**Did you know you can see a corporation's rule book on the ORIC website?**

Use 'Search for a corporation' (this searches the public register), put in the corporation's name or ICN and look under 'documents'.



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