

Managing property properly

Can Sectional Title Trustees be Paid?

By Jennifer Paddock

The position of a sectional title trustee is voluntary and often thankless one. Dedicated trustees put a lot of their free time and a mountain of effort into scheme management, yet often receive no remuneration in return. In this post we look at the legalities surrounding trustee remuneration.

Remuneration

Prescribed management rule (PMR) 10 deals with this issue. It divides trustees into two categories, being owner trustees and non-owner trustees, and treats remuneration for each category differently.

Owner trustees: may not be remunerated unless the body corporate decides to do so by special resolution.

Non-owner trustees: may be remunerated at such rate as may be agreed upon between the body corporate and the trustees.

Reimbursement

Remuneration as envisaged in PMR 10 may be given to trustee's in addition to reimbursement for all disbursements and expenses actually and reasonably incurred by them in carrying out their duties and exercising their powers. PMR 10 provides that both categories of trustees must be reimbursed for these expenses; so remuneration is compensation over and above reimbursement.

Remuneration as an incentive

In most schemes, owner trustees are not remunerated. Presumably the reason for this is that these people are willing to invest their free time in playing a role in ensuring that their properties are being well cared for and that they have more of a say in the scheme's management than the average owner. But in a scheme where owner apathy is major problem and owners do not want to stand as trustees, remuneration could be used as an incentive. There are people who are not interested in giving up their free time 'for nothing', but if they were offered payment for their time they may well be interested in standing for election as trustees.

Terms of remuneration agreement

The question of how much a trustee should be paid is one that no one can answer except the members of the body corporate. In the case of owner trustees, their remuneration could potentially be different in each case as this would be an expense that forms part of the body corporate's budget and would have to be agreed to by owners at an annual general meeting. In the case of non-owner trustees, their remuneration will be at such rate as they have agreed upon with the body corporate. How the trustees are paid (i.e. hourly, weekly, monthly etc.) will also be something that is agreed upon between the trustees concerned and the body corporate.

Remuneration of an alternate trustee

If an alternate trustee takes the place of a non-owner trustee whilst the non-owner trustee is unable to carry out his duties and functions, PMR 10 provides that the alternate trustee must claim his remuneration, if any, from the trustee who he replaced and not the body corporate, unless the body corporate has been instructed in writing by such trustee to pay any portion of his remuneration to such alternate trustee.

Paying a trustee for “part-time” work

Some schemes have retired persons with administrative skills who are not prepared to work for nothing, but who are prepared to work for very much less than the cost of their skills on the open market. The nature of the work will allow them to continue to enjoy their retirement, but spend a few hours a day or few days a week giving the body corporates administration their full attention. Particularly when a scheme is going through a particularly busy period, for example when major repairs are being undertaken, this can be a very wise investment. And for schemes that do not employ managing agents at all, it can be the only way to ensure that at least one of the trustees can be held to account!