

Dishonest and Fraudulent Conduct: The Property Services Compensation Fund

Strata managers play an essential role in managing the affairs of owners corporations which in turn have the responsibility of the management of common property in strata schemes.

While the majority of strata managers are honest and act with integrity, there have been instances where they have engaged in dishonest and fraudulent conduct. Such misconduct can result in significant financial loss to an owner corporation and individual lot owners.

Examples of Dishonest and Fraudulent Conduct by Strata Managers:

Strata agent dishonesty and fraud can take many forms. Here are some common examples:

1. Misappropriation of Funds

Strata managers can misappropriate funds, for example, by using funds from the owners corporation's account for personal purposes, or failing to pass on funds received on behalf of the owners corporation or individual lot owners.

2. Overcharging for Services

Some strata managers may overcharge for their services, bill for services not performed or charge for unnecessary services.

3. Conflicts of Interest:

Strata Managers may have a conflict of interest if they have personal or business relationships with contractors or suppliers and steer work towards those parties without disclosing the relationship to the owners corporation.

4. Failing to Comply with Legal Requirements

Strata managers have legal obligations to comply with various laws, such as the Strata Schemes Management Act 2015, the Work, Health and Safety Act 2011 and the Property and Stock Agents Act 2002 and regulations. Failing to comply with these and other laws or failing to advise the owners corporation of their legal obligations can result in financial loss.



T: (02) 9929 0226 M: 0403 738 996 ABN: 61 649 876 437
E: dbannerman@bannermans.com.au W: www.bannermans.com.au
P: PO Box 514 NORTH SYDNEY NSW 2059 AUSTRALIA

Liability limited by a scheme approved under Professional Standards Legislation

5. Misrepresenting Qualifications or Experience

Strata managers may misrepresent their qualifications or experience to obtain a contract, which can result in poor service delivery and financial loss.

The Property Services Compensation Fund

The Property Services Compensation Fund (PSCF) in New South Wales provides an avenue for consumers to seek compensation when they suffer financial loss due to the dishonest or fraudulent conduct of licensed property service providers. Licensed property service providers, including strata managers, contribute to the fund through an annual fee based on their licence class and level of business activity.

If a strata manager engages in dishonest or fraudulent conduct, the owners corporation or individual lot owners can make a claim for compensation under the PSCF. The PSCF is administered by NSW Office of Fair Trading.

To be eligible for compensation under the PSCF, an owners corporation or owner must have suffered a financial loss as a direct result of the licensed strata manager's 'failure to account'.

A 'failure to account' means a 'failure by a licensee to account for money or other valuable property entrusted to the licensee or an associate of the licensee in the course of the carrying on of the licensee's business as a licensee'.

Any claim is limited to \$500,000 and must be made within whichever of the following periods ends first:

- 12 months after the claimant has become aware of the failure to account; or
- 2 years after the date of the failure to account.

The owners corporation must also have taken reasonable steps to mitigate their loss, such as seeking legal advice or taking other action to recover their losses.

Please note that the PSCF does not cover group title structures, such as company title structures or BMCs as these are not governed by the Property and Stock Agents Act 2002.

If you or your owners corporation has suffered financial loss due to the dishonesty or fraud of your strata manager, Bannermans can provide advice on reasonable steps, advise generally and can assist in making a claim to the Property Services Compensation Fund.

**Prepared by Bannermans Lawyers
19 April 2023**



T: (02) 9929 0226 M: 0403 738 996 ABN: 61 649 876 437
E: dbannerman@bannermans.com.au W: www.bannermans.com.au
P: PO Box 514 NORTH SYDNEY NSW 2059 AUSTRALIA

Liability limited by a scheme approved under Professional Standards Legislation