

Advice Note – Strata Management



The Property Agents Board (the Board) acts as the regulatory authority for property agents in Tasmania.

This advice note is provided to assist property agents to understand licensing and conduct requirements when undertaking strata management functions and when a conduct complaint can be accepted by the Board.

Please note the following information is intended only to provide a summary and general overview on strata management relating to licensing and whether a conduct complaint can be lodged against a person involved in strata management. It is not intended to be all-inclusive nor does it constitute legal advice.

No requirement to be licensed if a person is undertaking strata management functions only

If a person is employed to undertake strata management functions only by a property management business or real estate agency business (the business) that person is not required to be licensed under the *Property Agents and Land Transactions Act 2016* (the Act). That is because strata management functions are regulated functions under the Act.

However, if the person is also required by the business to undertake regulated functions as defined under the Act, then they must hold a valid licence before they undertake those functions.

Regulated functions includes all or any of the following functions performed by a person while in the employ of a real estate agent or property manager:

- (a) inducing or attempting to induce, or negotiating with a view to inducing, people to do all or any of the following:*
 - (i) acquire or dispose of property or a business;*
 - (ii) make an offer to acquire or dispose of property;*
 - (iii) make an offer to acquire or dispose of a business;*
 - (iv) enter into a contract for the acquisition or disposal of property;*
 - (v) enter into a contract for the acquisition or disposal of a business;*
- (b) negotiating the leasing or letting of property;*
- (c) collecting rents for property that is leased or let;*
- (d) managing property that is leased or let;*

Conduct complaints may be lodged against a property agent who undertakes strata management functions

A person may lodge a conduct complaint against a property agent undertaking strata management functions relating to their conduct. A conduct complaint under the Act means 'a complaint that appears to involve an issue of unsatisfactory professional conduct or professional misconduct or a conviction for a serious offence'.

From the definition of professional misconduct and serious offence, these actions are not limited to

conduct when acting as a property agent and therefore each case would turn on its own facts.

The Board would consider whether the complaint related to conduct as a property agent, whether or not the person was 'fit and proper', or whether the conduct amounted to a serious offence before it would consider it a complaint.

A property agent who is in nominated control of the business can be the subject of a conduct complaint under the Act for the actions of employees engaged to only undertake strata management functions

The Act and the Code of Conduct (specifically clause 6 of the Code of Conduct which relates to supervision of employees and others engaged by a property agent) apply to a property agent who manages all employees of a licensed entity.

This means that a property agent who is in nominated control of the business is responsible for the work of employees who are not property agents and includes those employees who conduct strata management, and therefore a complaint could be made for lack of supervision.