

Levy Recovery and Payment Plans – What are the Rules?

We've been receiving a few enquiries in regards to the rules for levy recovery and payment plans under the new strata legislation.

You may recall late 2016 the new laws came into play giving lot owners the specific right to request an owners corporation to agree to a payment plan for any [levies in arrears](#).

However, before a levy recovery payment plan can be put into place, the owners corporation must accept the payment plan at a general meeting.

Therefore any lot owner who wants to pay their levies by instalments through a payment plan has to do the following:

1. Make a request (supported by owners who hold at least 25% of the unit entitlements) to the owners corporation to hold an EGM at which the owners corporation will consider the request of the lot owner to enter into a payment plan.
2. Pay the costs of holding the EGM at which the owner wants the payment plan to be approved.
3. Explain to the owners corporation why the payment plan should be approved to convince other owners why they should be given more time to pay their levies.
4. Have the payment plan approved at the EGM or alternatively, wait until the AGM for the plan to be approved.

Important

It's important to note that by holding an EGM it is not guaranteed that the request for the payment plan will be approved as the entry into a payment plan is a discretionary

matter for the owners corporation and it is not a mandatory requirement that such a plan has to be accepted.

Conversely, an owners corporation in a deserving and genuine case may decide to accept a request for a payment plan provided the owners corporation is of the view that the plan is likely to be adhered to and is fair and reasonable.

If a request for a payment plan is refused the lot owner may decide to take legal action in [NCAT](#) to ask for more time to pay their levies (but this would be unusual) or seek orders from the Local Court to permit the levies to be paid by instalments.

Any payment plan approved by an owners corporation cannot extend beyond 12 months and still does not prevent the owners corporation taking legal action against the lot owner to recover overdue levies.

For the full details of the new levy collection laws read our paper – [Levy Collection New Laws](#)

For NSW levy collection or strata legal advice please contact us [here](#) or call 02 9562 1266, we're happy to assist.