

How strata works in WA

The role of strata managers



► What is a strata manager?

A strata manager is an individual, partnership or company engaged by a strata company, or the strata council on behalf of the strata company, to perform specified scheme functions under a written strata management contract to help manage the strata titles scheme.

Strata managers can bring valuable expertise and knowledge to support strata companies in managing their day-to-day operations and meeting their compliance obligations. Their responsibilities include handling administrative tasks, managing insurance matters, facilitating meetings and effective communication, resolving conflicts, and coordinating maintenance and repairs.

Strata managers are not required to be licensed in WA, however, there are requirements strata managers need to meet under WA's strata laws. These include meeting minimum educational qualifications, obtaining criminal record checks, and maintaining a minimum level of professional indemnity insurance. Strata managers must also have a written strata management contract authorising them to perform the scheme functions they are assigned by the strata company.

When choosing a strata manager for their scheme, a strata company should compare potential candidates based on key factors like costs of providing their services, experience in managing similar schemes and the range of services they provide. Engaging an experienced strata manager can offer strata companies

expertise and benefits by leveraging this experience. During the selection process contract fees and services are often open to negotiation and strata companies should choose a strata manager that is the best fit for their scheme.

► Strata manager responsibilities

Strata manager responsibilities can vary, as some are required by strata laws, while others are agreed upon by the strata company and the strata manager during contract negotiations (apart from where the strata company's powers cannot be delegated). For instance, a strata company may wish to handle their maintenance matters, but have meetings arranged by the strata manager.



Volunteer strata managers

A strata manager can be a volunteer. To be a volunteer strata manager, the person must be an owner of a lot in the scheme and personally perform the strata manager functions at either no charge or a small honorary fee.

If they do charge, the honorary fee for their duties must not exceed \$250 per calendar year for each lot in the scheme.

The strata manager should keep the strata company informed of what they are doing and how they are performing their duties.

The strata manager must provide details of any trust accounts and they must also provide a periodic return to Landgate containing aggregated information about the schemes they managed in the preceding 12 months.

The strata company and the strata council can still carry out their duties even if the strata company has delegated them to a strata manager. A decision by a strata company or strata council about a duty delegated to the strata manager will take precedence, but the strata manager must be notified of the decision. A strata manager cannot be authorised to do certain things including:

- setting the contributions to be paid by the owners, and
- making decisions on a matter that requires a resolution of the strata company.

► Strata manager duties and obligations

WA's strata law imposes several statutory duties on strata managers, including the duty to:

- act honestly and in good faith in the performance of their functions,
- exercise a reasonable degree of care and diligence in the performance of their functions,
- have a good working knowledge of WA strata law,
- ensure they do not make improper use of their position to gain an advantage for themselves or others, or to cause detriment to the strata company,
- take reasonable steps to ensure that their agents, employees and contractors also comply with the STA when performing their functions,
- inform the strata company in writing of any conflict of interest as soon as practicable after they become aware of the conflict, and
- disclose to the strata company any gift or benefit they receive through their role in the strata titles scheme which is valued at \$100 or more in the calendar year and any gifts or benefits where the total amount of gifts and benefits from a person is \$100 or more.

► Strata manager appointments and terminations

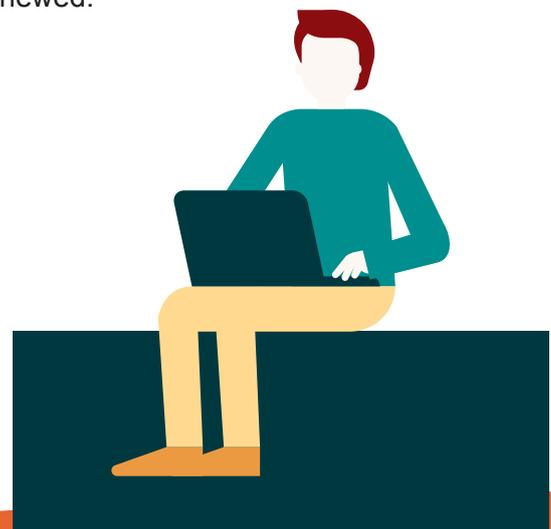
Strata manager appointments

The strata council has a broad power to appoint a strata manager and enter into a strata management contract. However, this power can be limited by the scheme's by-laws or the strata company may pass a resolution that restricts the decision to appoint a strata manager to the strata company or otherwise directs the strata council on the appointment of a strata manager.

It is important that the strata company or strata council carefully considers the duration of a strata management contract prior to entering the agreement. Shorter-term contracts provide schemes with flexibility to change strata managers more easily. However, longer-term contracts can maintain stability and continuity of strata managers to help ensure reliability and consistency in service. Striking a balance between these elements is key to ensuring strata companies can effectively manage their strata schemes and meet the needs of their community.

Terminating a strata management contract

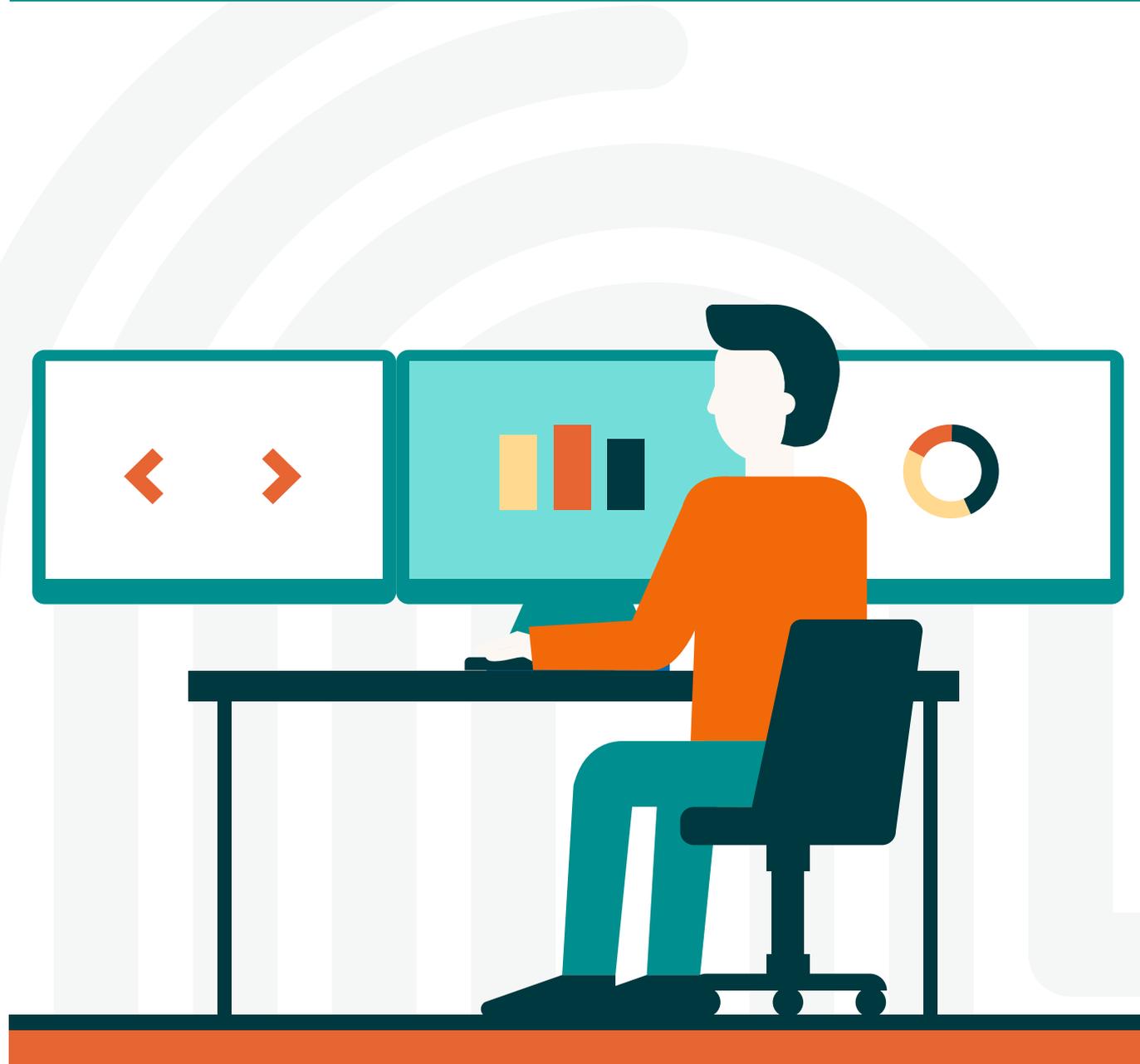
When a strata management contract is due to end, the strata company and the strata manager may resolve to extend or terminate the agreement. If the strata company and the strata manager agree to extend the contract, the extension must be in writing. Strata companies also need to be aware of any automatic rollover provisions and give appropriate notice to terminate if they do not wish the contract to be renewed.



The strata company may also choose to terminate the strata management contract while it is still in effect if there are proper grounds for termination by the strata company (section 151 of the STA). Proper grounds include, for example, where the strata manager has breached the contract, or one of their statutory duties imposed by the STA.

Before deciding to terminate a strata management contract, the strata company may wish to communicate its concerns to the appointed strata manager. This may allow for a resolution without the need to terminate the contract, which may disrupt the scheme management and result in unnecessary costs to the strata company.

Like any contract, the strata management contract between the strata manager and strata company can include terms and conditions that can be negotiated between the parties. There are also minimum requirements for strata management contracts in WA. Refer to section 145 of the STA for more information.





Steps required by a strata company to terminate a strata management contract.

1

Serve a written show cause notice on the strata manager to notify them of the proposed termination and the specific grounds for the termination, as well as the facts relied upon as evidence.

The strata manager will then have a period specified in the show cause notice (being at least 14 days after the date of the notice) to make written submissions to the strata company to outline why the contract should not be terminated.

2

Following this notice period and considering any submissions received from the strata manager, if the strata company is satisfied there are proper grounds for termination, they may notify the strata manager in writing stating the contract will terminate on a date at least 28 days from the date of the notice.

The strata company must inform the strata manager of the manager's right to apply to the State Administrative Tribunal (SAT) for review of the decision.

3

The strata manager can apply to SAT to review the strata company's decision to terminate the contract.

If the strata manager makes such an application, SAT may make an interim order to postpone the termination of the contract. This order can be in place for up to three months and can be renewed by SAT.

4

Where a strata manager's contract has been terminated, the strata manager must deliver to the strata company any of the strata company's records, keys, and property the strata manager has under their control within 28 days of the date of termination (even if the strata manager has made an application to SAT for review of the decision to terminate the contract).

