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WHEN DOES THE LEVY ARREARS COLLECTION PROCESS KICK IN?

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WHEN DOES THE LEVY ARREARS COLLECTION PROCESS KICK IN?

We all know that raising and collecting strata levies for building maintenance and scheme administration is fundamental to an efficiently run strata complex.

That's why it's imperative that any strata levies in arrears are recovered in a timely manner to ensure that sufficient funds are always readily available.

So what is the process for:

1. Raising Levies
2. Levy Payments
3. Levies in Arrears
4. Collection of Levies in Arrears

1. How are levies raised?

In strata blocks at each AGM a budget is proposed for levies for the next financial year. Lot owners will then vote at the AGM and agree (or not) on the proposed levies for the next 12 months.

Let's assume lot owners agree on the levies to be raised and they are approved at the AGM for the next 12 months.

From here a levy notice will be created for each lot owner (usually quarterly) and dispatched to the owner for payment. The levy notice will include:

- Administrative Fund Levy
- Capital Works Fund Levy
- Any Outstanding Levies
- Levy Payment Due Date

2. When Does The Levy Collection Process Start?

Generally the due date on a levy notice is more than seven days for payment.

However, as a general rule of thumb, if the levies are overdue for more than 30 days the collection process will then start and interest will begin to kick in.

For example;

If the levy is due on 1 January and by 31 January the levy has not been paid interest of 10% will start on 1 February (but be calculated from 1 January) as per legislation requirements.

The collection process is agreed to at the AGM.



3. What are the Implications of Levies in Arrears?

- Cash flow – budgets are very precise and all funds are required to maintain the strata building
- Outlay of collection costs – initially these costs are paid by the owners corporation which further impacts cash flow
- State of harmony – no one likes carrying the load for someone else
- Levies in arrears can get so large they impact the owners corporation ability to pay bills as they fall due
- If your levies are in arrears you have no say in how the owners corporation is run. You are effectively a 'second class citizen'. At least until your levies are paid.

4. Collection of Levies in Arrears

If a lot owner neglects to pay their required levy contributions in full by the due date, the owners corporation has the right to [recover any outstanding levies](#) as a debt.

All costs incurred to collect levies in arrears are on-charged to the particular lot owner. The general process for the collection of levies in arrears is as follows:

- i. Most strata managers have an automated system with an inbuilt collection process involving 3 stages which sends 2 reminder notices plus a third being the 21 day notice.
- ii. If no response is received to the first 3 stages the strata manager will engage a lawyer to send a Letter of Demand (LOD). Typically 14 days is given prior to legal action being instigated.
- iii. If no response is received to the LOD a Statement of Claim (SOC) is filed with a Court and sent to a process server for service and the served on the lot owner after which the owner has 28 days to pay.
- iv. If the 28 days expires with no payment, and no defence to the SOC, judgment can be obtained and action taken to enforce the judgment. These actions can be: a garnishee order, instructing the sheriff, an examination of the owner or bankruptcy.

In certain circumstances an owners corporation may force the sale of a lot for payment of levies as has happened in recent times: [Apartment Forced Sale to Pay Strata Levy Debt](#).

The recovery of strata levies is unique and requires a detailed understanding of the various strata laws as they apply in each state and territory throughout Australia.

Specialist paralegals and lawyers are not only expert collectors and negotiators; they are highly skilled in all essential aspects of levy recovery.

Speak to the specialist NSW levy collections experts [here](#), we'd be happy to assist.





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About JS Mueller & Co

JS Mueller & Co has been servicing the strata industry across metropolitan and regional NSW for over 30 years. We are a specialist firm of strata lawyers with in depth and unmatched experience in, and comprehensive knowledge of strata law and levy collection.

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