

Crescent West, Bryanston















INTRODUCTION TO TRUSTEE ROLES AND RESPONSIBILITIES

KEY FUNCTIONS OF TRUSTEES

Management Oversight:

- Oversee the administration of the sectional title scheme.
- Make decisions on behalf of the body corporate.

Representation:

- Act as representatives of all property owners.
- o Ensure the collective interests are prioritised.

Compliance Assurance:

- Ensure adherence to relevant laws and regulations.
- Implement and enforce the scheme's rules.



FIDUCIARY DUTIES OF TRUSTEES

Duty to Act in Good Faith

- Prioritise the best interests of the body corporate.
- Avoid conflicts of interest.

Duty of Care and Diligence

- Perform duties with reasonable care and skill.
- Make informed decisions after due consideration.

Compliance Responsibilities

- Maintenance: Upkeep of common property and facilities.
- Rule Enforcement: Ensure all residents adhere to established rules.
- Financial Management: Levy and collect contributions and Manage the body corporate's finances responsibly.



LEGAL RISKS AND PERSONAL LIABILITY

Negligence Claims

• Failing to fulfill duties may lead to legal action.

Harassment Allegations

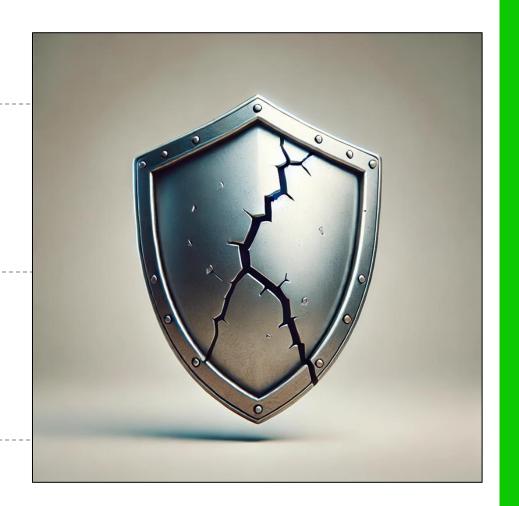
• Interactions with owners or residents may result in claims.

Personal Liability Risks

- Acting outside of authority can lead to personal financial loss.
- Liability for damages if found negligent or in breach of duty.

Mitigation Strategies

- · Stay informed about legal obligations.
- Document decisions and actions thoroughly.





THE HARASSMENT ACT AND LEGAL COSTS

MANAGING TRUSTEE RISKS AND LEGAL CHALLENGES

Understanding the Harassment Act

- Defines harassment and provides legal remedies.
- Trustees can be both complainants and respondents.

Implications for Trustees

- Defending against harassment claims can be costly.
- Legal processes may be lengthy and stressful.

Financial Considerations

- Legal costs may not be recoverable, even if vindicated.
- Personal finances could be at risk without indemnification.



STATUTORY INDEMNIFICATION FOR TRUSTEES

MANAGING TRUSTEE RISKS AND LEGAL CHALLENGES



Prescribed Management Rules (PMRs)

- Offer indemnification for trustees acting in good faith.
- Protect against personal liability for official actions.



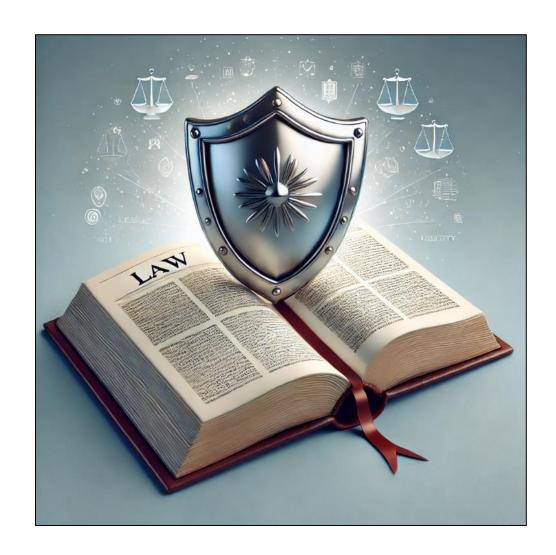
Conditions for Indemnification

- Actions must be within the scope of trustee authority.
- No gross negligence or willful misconduct involved.



Benefits

- Encourages diligent performance without fear of personal loss.
- Supports trustees in making necessary decisions.





THE IMPORTANCE OF INDEMNITY INSURANCE

MANAGING TRUSTEE RISKS AND LEGAL CHALLENGES

Role of Indemnity Insurance

- Provides financial protection against claims and legal action.
- Covers legal defense costs and potential damages.

Coverage Details

- Should include all trustees during their term of service.
- Must be sufficient to cover potential high-cost claims.

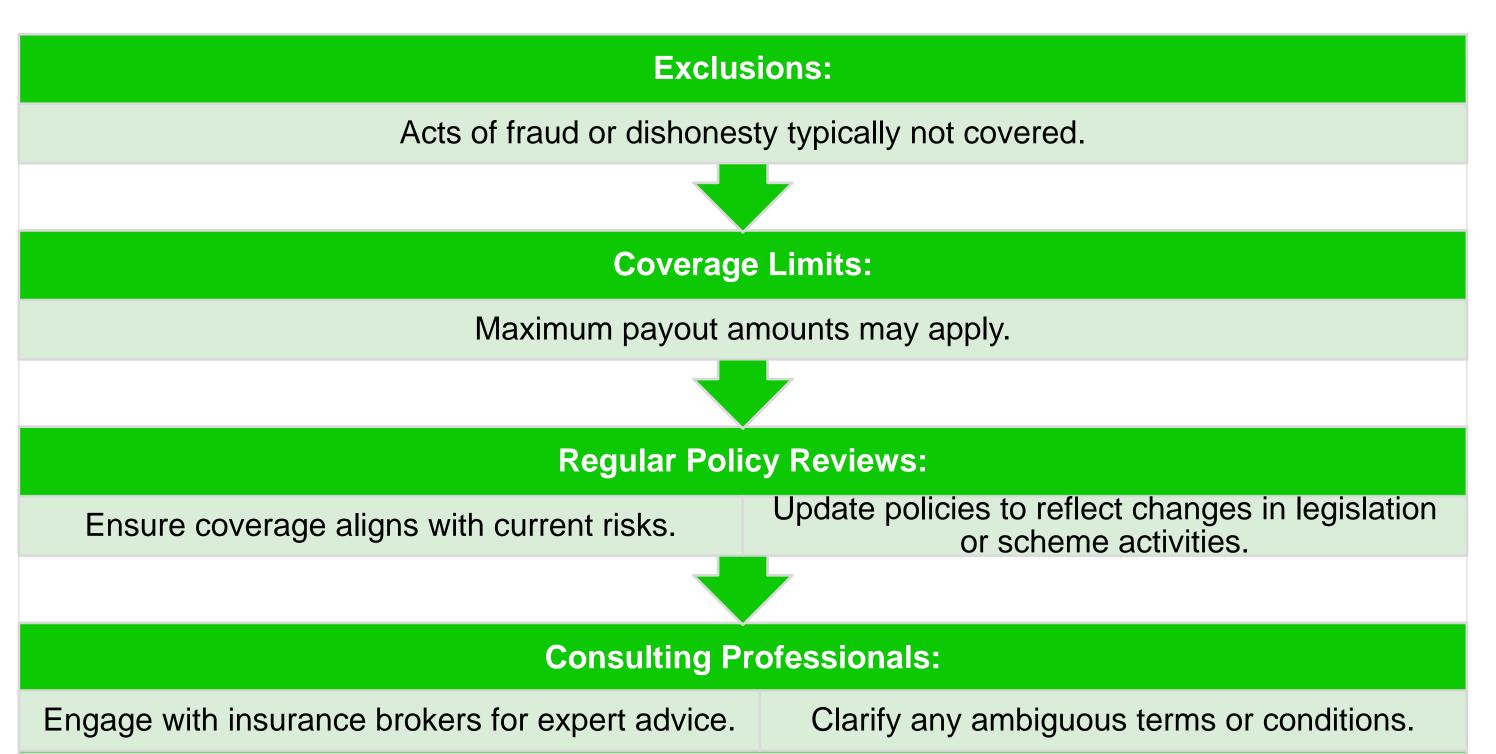
Body Corporate's Responsibility

- Obtain and maintain appropriate insurance policies.
- Regularly review and update coverage as needed.





LIMITATIONS AND CONSIDERATIONS OF INDEMNITY INSURANCE





FIDUCIARY DUTIES OF TRUSTEES

ADDRESSING FINANCIAL RISKS IN LEGAL DISPUTES

Challenges in Cost Recovery

- Courts may not award legal costs to the successful party.
- Trustees might bear expenses even when acting appropriately.

Urgency of Action

- Some situations require immediate response.
- Delay in obtaining body corporate approval can be detrimental.

Financial Implications

- Personal funds may be used upfront.
- Reimbursement is not guaranteed without proper policies.





POLICIES FOR LEGAL DEFENCE AND INDEMNIFICATION

STREAMLINING INDEMNIFICATION THROUGH EFFECTIVE POLICIES

Establishing Clear Policies

- Bodies corporate should have documented indemnification procedures.
- Policies should outline the process for claiming indemnity.

Alignment with Insurance Requirements

- Ensure internal policies meet insurer's criteria.
- Facilitates smoother claims processing.

Benefits of Policies

- Provides clarity and assurance to trustees.
- Minimises disputes over reimbursement.





CLAIMS FOR REIMBURSEMENT AGAINST THE BODY CORPORATE

GUIDELINES FOR CLAIMING REIMBURSEMENT EFFECTIVELY

Eligibility for Reimbursement

- Trustees acted in good faith and within their authority.
- Expenses were necessary and reasonable.

Reimbursement Process

- Submit detailed claims with supporting evidence.
- Body corporate reviews and approves legitimate expenses.

Importance of Documentation

- Accurate records of actions and decisions support claims.
- Transparency aids in timely reimbursement.



CONCLUSION: ENSURING PROTECTION AND SUPPORT FOR TRUSTEES

POTENTIAL LEGAL CHALLENGES

Education

• Regular training on legal duties and risks.

Indemnification

Robust indemnity provisions in place.

Insurance

Adequate indemnity insurance coverage.

Importance of Clarity in Policies

- Reduces uncertainty for trustees.
- Enhances decision-making confidence.

Role of the Body Corporate

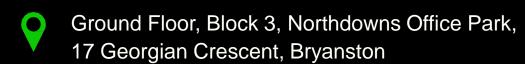
- Provide support and resources to trustees.
- Foster a collaborative environment.







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