

I DON'T GET ALONG WITH MY NEIGHBOUR, WHAT CAN I DO?

All tenants have an obligation not to cause or permit interference with their neighbour's quiet enjoyment of their home. If you do not get along with your neighbour or you are in dispute over an issue (eg, a tree overhanging a border fence), it is important to try to resolve your differences in a way that means you can both enjoy living in your homes.

If you are unable to resolve differences with a neighbour, the Conflict Resolution Service offers advice and dispute resolution services. Their website contains useful information (www.crs.org.au) or you can telephone the Dispute Assessment Line on 6162 4050.

If the problem continues, it may be helpful to keep a written record specifying details such as what occurred, dates and times.

QUIET ENJOYMENT

A tenant has a right to the quiet enjoyment of their premises. Furthermore, the lessor/landlord (ACT Housing) cannot cause or permit any interference with the reasonable peace, comfort or privacy of the tenant. That is why there are guidelines regarding property inspections, routine maintenance and other such issues relating to public housing.

Housing ACT must therefore take any reasonable action that is within their control to remedy or prevent a breach of your quiet enjoyment right. In practice, this is complicated and it may be that

Housing ACT cannot legally do more than you as a tenant can. For example, if you have a noisy neighbour who is not another public housing tenant but a private renter or homeowner, Housing ACT is limited in what they can do to remedy the situation.

If your neighbour is also a public housing tenant, Housing ACT has more options available, however they will require evidence establishing your claim. If the other tenant is in breach of their tenancy agreement, then Housing ACT may take action.

If you are dissatisfied with Housing ACT's response to your complaint, you can make an application to the Residential Tenancies Tribunal ('RTT'). You will need to show how your quiet enjoyment has been interfered with; and how Housing ACT has failed to address the situation.

See **The Residential Tenancies Tribunal** (WRLC Fact Sheet 11).

WHAT CAN I DO IF MY NEIGHBOUR IS THREATENING MY SAFETY?

If your neighbour has threatened your safety, you should call the police. If you have an ongoing problem with your neighbour threatening your safety, you may be able to apply for a protection order from the Magistrates Court.

You can contact the Legal Aid Protection Order Unit on 6217 4299 for legal advice about protection orders.

WHAT IF MY NEIGHBOUR SAYS I AM THE PROBLEM?

If it is alleged that you have interfered with the quiet enjoyment of your neighbour, Housing ACT may seek to terminate your tenancy and evict you on the grounds that you have breached your tenancy agreement. Housing ACT will need to establish that you have caused serious or continuous interference with the quiet enjoyment of nearby premises.

In most situations, Housing ACT must first issue a Notice to Remedy to the tenant, describing the breach and giving 14 days to remedy — that is, to fix the problem or to stop the activities that are causing offence.

After the 14 days, if Housing ACT believes the breach has not been remedied or that it is not capable of remedy they can give the tenant a 14-day Notice to Vacate. If the tenant does not vacate, Housing ACT can then apply to the RTT for eviction orders.



Welfare Rights & Legal Centre

Advice Line
6247 2177

The Tribunal may make eviction orders if Housing ACT can show:

- That the tenant breached the tenancy agreement; and
- Housing ACT had served a valid termination notice based on that breach; and
- The tenant has not remedied the breach; and
- The breach justifies the termination of the tenancy; or
- The tenant refuses to remedy the breach; or
- The tenant is not likely to remedy the breach; and
- It is just and appropriate to make the order sought.

In certain circumstances, the Tribunal has the power to make a termination and possession order **effective immediately** if they are satisfied the tenant has caused or allowed serious or continuous interference with the quiet enjoyment of nearby premises. This is a serious order made in very limited circumstances.

See also Eviction from Your Home (WRLC Fact Sheet 12) and **Defending an Eviction** (WRLC Fact Sheet 13).



Disclaimer

This fact sheet contains general information available at the time of printing. It does not constitute legal advice. If you have a specific legal problem, please contact the Welfare Rights and Legal Centre's advice line on 6247 2177. The Welfare Rights and Legal Centre is entirely independent of Housing ACT. All assistance is free.

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