



# Disputes

In this fact Sheet we look at disputes in strata & community titled groups and some appropriate methods used to resolve them.

Unit living often brings together people of diverse interests and backgrounds. Inevitably, disagreements and disputes arise.

Hopefully, most disputes can be sorted out by those involved, simply by discussing the problem. Tolerance and understanding of others is essential to harmonious living. Effective communication is also vital.

## Step 1: Talk about it

Sometimes people in a dispute have not even spoken to each other about the problem. This makes it very hard for people to continue living together. Have you made every attempt possible to resolve the dispute with the other party? Would it help you to have your corporation discuss this problem at a meeting?

## Step 2: Issue a Breach Notice

Where the corporation is satisfied that an owner/occupier has breached the Corporation's Articles or By-Laws it can decide to issue a Notice to that person. This will require compliance with the Articles / By-Laws

## Step 3: Mediation

Mediation is a structured negotiation process in which a neutral and independent mediator assists parties in dispute to achieve their own resolution.

Community Mediation Services can assist in the settlement of neighbourhood and other community disputes. Mediation is a voluntary process in which trained mediators work with people in conflict to help them to resolve their differences. The role of the mediator is to listen, ask questions and find out the facts, not to blame anyone or take sides. When the mediator has gathered all the information they can facilitate people to construct an agreement which is not legally binding, but is made in good faith. The advantages of mediation as a way of resolving disputes is that:

- it can save on court and solicitor costs for both parties
- it is conducted in private, unlike court proceedings
- it can contribute to the early resolution of problems, thereby reducing stress and anxiety
- both parties take responsibility for their role, and are given the opportunity to resolve their own disputes.

Mediation services intervene in disputes at the request of at least one of the parties. If an approach is made to a service, the service can invite the other party to attend a mediation session to discuss the problem. Because attendance is voluntary on both sides, any party may withdraw from the resolution process at any time.

The mediator's role is to:

- help the parties identify the issues in dispute
- assist the parties, where necessary, to understand their rights and responsibilities under the Act
- suggest options and strategies by which the issues may be addressed.

## Step 4: Court

[www.unitcare.com.au/legislation/disputes\\_sta.html](http://www.unitcare.com.au/legislation/disputes_sta.html)

[www.unitcare.com.au/legislation/disputes\\_cta.html](http://www.unitcare.com.au/legislation/disputes_cta.html)

If a resolution cannot be easily worked out, or if a member of the corporation claims that a decision of the corporation or management committee is unreasonable, unjust or oppressive, then an application may be made to the Magistrates Court. This is considered a minor civil action to decide the matter or to stop the offensive behaviour. The corporation may be represented by the manager or a lawyer in any proceedings subject to the Court's agreement. A unit holder should also be present. The court may:

- Order that a party refrain from any action, or stop doing something
- order that the articles of association be altered
- management committee
- order a party do something
- award money as damages or compensation
- request further information or records.
- appoint an administrator who assumes all powers of the Corporation.

Any person who fails to comply with an order of the court is guilty of an offence and heavy fines, even a jail penalty, can be imposed. If the matter is extremely complicated or large amounts of money are involved, the matter may be transferred to a higher court (the District or Supreme Court) for resolution.

## Tenant - evicting

If the tenant of a unit uses the unit for illegal purposes, causes a nuisance or interferes with the reasonable peace, comfort or privacy of the other occupiers, then the affected person or persons can apply to the Residential Tenancy Tribunal to terminate the tenancy.

The following links may assist your group:

[www.unitcare.com.au/bp\\_strata\\_disputes.html](http://www.unitcare.com.au/bp_strata_disputes.html)

Community Mediation Service

[www.saccls.org.au/centres.php](http://www.saccls.org.au/centres.php)

Illegal parking - notice with plan

[www.unitcare.com.au/pdfs/parking\\_notice\\_with\\_plan.rtf](http://www.unitcare.com.au/pdfs/parking_notice_with_plan.rtf)

Section 90 tenant eviction application

[www.unitcare.com.au/pdfs/RTT\\_form\\_8\\_section90\\_evict\\_tenant.pdf](http://www.unitcare.com.au/pdfs/RTT_form_8_section90_evict_tenant.pdf)

Animal notice Strata Act

[www.unitcare.com.au/pdfs/animal\\_breach\\_notice\\_1.rtf](http://www.unitcare.com.au/pdfs/animal_breach_notice_1.rtf)

Noise nuisance - diary to resident

[www.unitcare.com.au/pdfs/noise\\_diary\\_of\\_events.rtf](http://www.unitcare.com.au/pdfs/noise_diary_of_events.rtf)

Noise breach notice

[www.unitcare.com.au/pdfs/noise\\_breach\\_notice.rtf](http://www.unitcare.com.au/pdfs/noise_breach_notice.rtf)

Notice to make good

[www.unitcare.com.au/pdfs/breach\\_notice\\_7\\_days.rtf](http://www.unitcare.com.au/pdfs/breach_notice_7_days.rtf)

Court application

[www.unitcare.com.au/pdfs/court\\_application\\_Form15.rtf](http://www.unitcare.com.au/pdfs/court_application_Form15.rtf)

Our thanks to

[www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)

[www.lsc.sa.gov.au](http://www.lsc.sa.gov.au) and

[www.saccls.org.au](http://www.saccls.org.au)

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