

## Dealing with Anti-Social Behaviour in Public Housing

NSW Police are responsible for responding to crime, intrusive noise and violent or threatening anti-social behaviour. NSW Police can respond to anti-social behaviour both within a home or building and in public areas.

Department of Communities and Justice (DCJ) Housing is responsible for holding tenants accountable for their responsibilities under the lease. Every tenant has a responsibility to allow their neighbours to enjoy their home without serious nuisance, harassment or harm. DCJ Housing can only take action on anti-social behaviour that happens inside a public housing property (including common areas like car parks and corridors).

NSW Police and DCJ Housing have a Memorandum of Understanding (MOU) to allow them to share information to get action on crime and breaches of tenancy. No tenant can be evicted from their home without the NSW Civil and Administrative Tribunal (NCAT) making this decision based on the evidence available. Neither Police nor DCJ Housing can get an eviction or remove someone without following the law and a fair process.

The agencies cannot just take complaints at face value, but must investigate, collect independent evidence and hear from all parties. It can be a complex process and can take a long time. The agencies are likely to need neighbours and witnesses to keep records of incidents. DCJ Housing will need written statements, witness or serious incident reports, and may need people to agree to give evidence in the tribunal to get action.

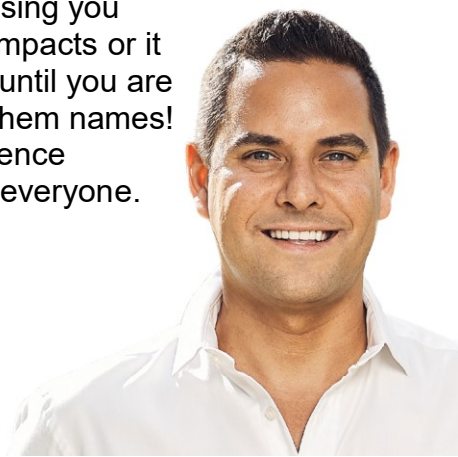
Where a 'problem neighbour' has a disability, disease or illness that affects their capacity to control themselves or change their behaviour, DCJ Housing has to work with the tenant to reduce impacts on neighbours before asking the tribunal to evict the tenant. They will refer the tenant to support services to get help them keep their tenancy and reduce impacts on neighbours.

What can you do to help agencies address anti-social behaviour so you and your neighbours can enjoy your home in safety and peace?

### STEP 1: TALK

Remember that we all have to share the same space – living in the inner city means we all have to put up with noise and people who live their lives differently. Don't expect other people to have the same priorities or interests.

As early as possible, tell your neighbour about behaviour that is causing you problems. They may not know what they are doing is having these impacts or it could be their visitors or their children causing problems. Don't wait until you are really angry and might lose your cool. Be polite, don't swear or call them names! Use your judgement about speaking to someone who threatens violence intimidates you or is intoxicated – it may not be possible to talk with everyone.



Give examples about the specific things not just “*You are too noisy*” or “*Why don’t you control your dog?*”. Ask for specific action e.g. “*When you have loud parties all night it wakes up my baby. Could you please turn the music down after midnight?*”

## **Keep Your Cool**

Some annoying and nuisance behaviour is not illegal. This can be difficult to address and may be something you can live with. Try to ignore very minor incidents and don’t strike back or try to ‘get even’ with abuse or threats that worsen the situation. Don’t drag in friends or family members to take your side – this will make the situation worse.

We cannot control other people’s behaviour, but we can control how we respond to it.

For example, it can be hard not to take it personally when someone calls you nasty names, but it is important not to retaliate. Intoxication, illness, medication or other personal circumstances may cause your neighbour’s annoying behaviour. Remember we all do silly things, make mistakes or say things we regret in the heat of the moment.

It could help to put some enjoyable things in your life instead of focussing on the problems. Go for a walk, use headphones, visit a friend, or just go out for a while if you need to calm down. Join a club/activity group when the problems occur so you get away from the situation. This may defuse the situation.

## **STEP 2: REPORT**

If the situation does not improve, you need to report to the right agency. If you are fearful of some sort of retaliation, tell the person taking your report; they should keep your identity confidential.

Sometimes it can be one person’s word against another person’s word – making it very hard to sort out if no-one else is reporting their concerns. If you know that others are also concerned, encourage them to report too.

Make sure your reports focus on what the other person has done, not just how their behaviour has impacted on you. The agencies need to know the specific behaviour that is causing problems so they can identify if it is crime, breach of tenancy, discrimination etc.

## **Police**

Police are the key agency responsible for addressing crime and anti-social behaviour and can address crime inside your building or outside in the community. They need to collect evidence to take the person to court or fine them, and may need witnesses or witness statements to support action in court. Sometimes police officers just visiting and talking to people will mean they change their behaviour. Sometime police officers have to witness the problematic behaviour to issue a fine.

It is vital to report incidents to police so they have a record of problem behaviours. Encourage anyone else affected to also report to police so they have witnesses and evidence to show that your reports are valid. Keep a notebook or diary with details, any witnesses and the Event Number that police allocate when they have responded to the incident.

Call 000 where there is an immediate emergency, crime in progress or someone is at risk of serious injury.

Call the local Police Station if police need to attend but it is not urgent: Kings Cross 8356 0099; Surry Hills 9265 4144 or Sydney City 9265 6499.

Call 131 444 where you don't need police to attend but the incident needs to be reported. You can also report anonymously to Crime Stoppers if you don't want to give your name (but they won't be able to report back to you):

<https://www1.police.nsw.gov.au/cs.aspx> or 1800 333 000.

For ongoing concerns like alleged drug dealing, call the local Police Station and ask for the Crime Prevention Officer who can take details to pass to the intelligence analysts to plan operations like undercover officers and surveillance.

### **Apprehended Violence Orders**

If you are fearful of violence and the person has made threats to harm you or your family, police may take out an apprehended violence order (AVO). If the person breaches the rules set down by the court, they have to go to court and can be fined or even jailed.

You can also take out an AVO yourself if police don't wish to. Get advice first: [http://www.lawaccess.nsw.gov.au/Pages/representing/lawassist\\_avo/lawassist\\_gettingavo\\_home/lawassist\\_applying\\_avo/lawassist\\_apply\\_avo\\_police.aspx](http://www.lawaccess.nsw.gov.au/Pages/representing/lawassist_avo/lawassist_gettingavo_home/lawassist_applying_avo/lawassist_apply_avo_police.aspx)

### **DCJ Housing**

DCJ Housing is your landlord and has powers under tenancy law only – what is covered in your lease. Bad behaviour in the community is not relevant to tenancy laws.

DCJ policy on dealing with anti-social behaviour explains their approach: <https://www.facs.nsw.gov.au/housing/policies/antisocial-behaviour-management-policy>. This policy makes it clear that DCJ Housing won't intervene where it is a 'neighbour dispute' between people who are having an argument or don't like each other.

The policy includes referring the person to support services to get help, however in most cases DCJ Housing cannot force anyone to get health or medical treatment. DCJ Housing can make 'welfare' visits to all tenants to check they are okay. This may help them see evidence of concerns like hoarding and squalor where a tenant collects materials and their home is a fire risk.

A home visit may result in other agencies getting involved, like child protection workers, home help or disability support.

DCJ Housing can issue 'strikes' against tenants who cause serious property damage or badly disturb the peace, comfort or privacy of neighbours over a period of time. If there are three strikes in less than 12 months, DCJ can apply to the tribunal for behaviour orders or for an eviction in serious cases. After 12 months, previous strikes no longer count.

In each case, DCJ Housing officers have to investigate and interview the person so they have an opportunity to give their side of the story. This is what you would want if someone makes complaints against you. It may not be possible for the department to take further action when it is one person's word against another person's word.

DCJ Housing has to take tenants to the NSW Civil and Administrative Tribunal (NCAT) to test evidence. The tribunal operates as a court for private and public tenancies and can make orders for the person to not engage in certain activity or order the eviction order. LawAccess can tell you about going to the tribunal: [https://www.ncat.nsw.gov.au/Pages/cc/Divisions/Social\\_housing/social\\_housing.aspx](https://www.ncat.nsw.gov.au/Pages/cc/Divisions/Social_housing/social_housing.aspx)

DCJ Housing can negotiate an 'Acceptable Behaviour Agreement' with the tenant or ask the tribunal to impose or encourage the tenant to agree to behave in certain ways. DCJ Housing may offer a transfer to either tenant as one way to resolve the conflict. You may feel like you should not have to move, but it could be worth considering this option if your daily life will be better.

DCJ Housing can obtain information/evidence from Police to support action in the Tribunal. There is a Memorandum of Understanding (MOU) allowing private information to be shared. You may wish to ask both Police and DCJ Housing officers to share this information to help get a coordinated response. There are special provisions if a tenant is victim of domestic/family violence or children may become homeless.

If you feel that DCJ Housing has not followed up properly with action in the tribunal, you can take the department as the landlord to NCAT despite having lots of strong evidence. Get advice from a Tenants Advice Service about your options first so you understand what is needed to win a case like this. The Tenants Union also has a good summary: <https://www.tenants.org.au/factsheet-11-nsw-civil-and-administrative-tribunal>

Remember DCJ Housing officers have large numbers of tenants to support across many properties, and will not be able to just deal with your concerns alone.

## **Council**

Councils may be able to follow up on concerns like barking dogs, dumped rubbish, unauthorised building work or abandoned/unregistered vehicles. They cannot deal with people's behaviour.

## **Discrimination**

Some discriminatory behaviour is against the law, including where people are treated unfairly because of their age, race/ethnicity, marital status, pregnancy, homosexuality, gender identity or carer responsibilities. The DCJ Housing anti-social behaviour policy also covers this sort of unfair treatment. However the laws do not cover how individual people treat each other.

Talk to the Anti-Discrimination Board if you think that the person is treating you unfairly because they have some belief that different people are lesser or don't deserve equal or fair treatment: <http://www.antidiscrimination.justice.nsw.gov.au>.

## **Health Support**

The person responsible for anti-social behaviour may have a disability, mental illness or personality disorder that reduces their capacity to control themselves. This may be the reason they are eligible for social housing as they cannot get a home in the private housing market and need extra support. Changes in their behaviour could happen because their condition has gotten worse over time, their medication may not be effective or their support service does not have enough staff or time to help them.

If you know that someone has a mental illness or disability, try to find out which agency provides support and if they have a caseworker, support worker or advocate. You may be able to keep in touch with this worker when things are not going well so they can intervene and provide extra help. DCJ Housing may know about and be able to contact some tenants' health support services when problems occur but they may not have this information.

Health services cannot force people to get treatment. The main exception is where someone is at risk of harming themselves or others and police can take them to a psychiatric hospital for protection and forced treatment until they are stable.

## **STEP 3: DOCUMENT**

Keep a diary of incidents, including any information about the person, time, date and location, and what happened e.g. "05/02/2019 2am: about 10 people having a party with loud music in Unit XX, turned into a huge fight with yelling and screaming. Police called event No XXXX". Incident diaries can provide evidence for agencies and the tribunal.

Getting action will be easier if a number of people are reporting and keeping records of incidents. DCJ Housing has incident diary and witness forms you can use.

## **STEP 4: MEDIATE**

Where there is a neighbourhood dispute or conflict, both agencies will suggest mediation as a first step. Community Justice Centres provide free mediators who sit down with both parties to hear each side's views and needs and try to get a common agreement. This won't work unless both parties want to give it a go:

<http://www.cjc.justice.nsw.gov.au/>

## **STEP 5: TRIBUNAL**

### **DCJ Housing**

As the landlord, DCJ Housing has powers under tenancy law i.e. what is covered in your lease. What happens in the community and streets etc is not relevant under their legislation.

When DCJ Housing takes tenants to the NSW Civil and Administrative Tribunal (NCAT) it can make orders for the person to not engage in certain activity (Specific Performance Orders) or to evict them. If the person does not comply with this order, DCJ Housing has to take them back to the tribunal for further orders or eviction notice. It can take several months to collect enough evidence for a tribunal case and to get a hearing time at the tribunal.

This is not a quick process and there is no guarantee the tribunal will agree with you or DCJ Housing. LawAccess information about the tribunal:

[https://www.ncat.nsw.gov.au/Pages/cc/Divisions/Social\\_housing/social\\_housing.aspx](https://www.ncat.nsw.gov.au/Pages/cc/Divisions/Social_housing/social_housing.aspx)

## **STEP 6: ESCALATE**

### **Tribunal**

If the situation remains distressing and you feel that DCJ Housing has not followed up properly with action in the tribunal, you can take the department as the landlord to NCAT. The Tenants Union has information about this:

<https://www.tenants.org.au/factsheet-11-nsw-civil-and-administrative-tribunal>.

Get advice from the Redfern Tenants Advice Service about your circumstances if you want to consider this option: <https://rlc.org.au/our-services/tenancy-housing>

### **Transfer**

If you find the situation very distressing and it is not getting better, consider whether you want to move. DCJ may offer a transfer to either tenant as one way to resolve the conflict. You may feel like you should not have to move, but it could be worth considering this option if your daily life will be better.

Mutual exchange is a similar option, where you agree to swap with another tenant (DCJ Housing must approve the swap). Check the options at

<http://ourhouseswap.com.au> and <https://www.facebook.com/pages/Housing-commission-swap-Sydney/536653976470621>.

## **Your MP**

Members of Parliament do not have any legal authority to investigate or take action on these concerns. MPs cannot force any particular action, but can check with the responsible agencies to make sure they are actively helping. This includes the local Police Commander, DCJ Team Leader and mental health service.

Members of Parliament don't have access to internal department files and cannot direct the agency officers. If you are concerned that the agency is not following their policy, you can make a complaint to the agency. Where there are serious breaches of policy and lack of action, you can ask the NSW Ombudsman to investigate and review what's been done: <https://www.ombo.nsw.gov.au>.