

Factsheet No. 1

Resolving your issue through NCAT



This Factsheet helps you understand how the NSW Civil and Administrative Tribunal (**NCAT**) can help you resolve a legal issue, and what steps you will have to take if you decide to go down this path.

What does the NCAT do?

NCAT deals with disputes in a wide variety of areas, including consumer claims, tenancy and building works, guardianship, discrimination and can also review NSW government administrative decisions.

NCAT can help you negotiate an agreement with the person whom you are having the dispute with, or make a legally enforceable decision about your dispute if you are unable to reach an agreement.

NCAT is designed to provide a low cost and accessible system for resolving disputes. Parties are encouraged to run their own cases without representation.

What types of disputes can NCAT help resolve?

There are four main divisions of NCAT, which each deal with different types of issues. These are:

1. Administrative and Equal Opportunity Division

This division reviews administrative decisions made by NSW Government agencies, such as access to information held by the NSW Government. This division also resolves complaints referred to it by the Anti-Discrimination Board relating to discrimination, harassment, victimisation and vilification.

2. Consumer and Commercial Division

This division resolves a broad range of disputes including disputes relating to leases, boarding houses, home building, motor vehicles, dividing fences and the supply of other goods and services.

3. Guardianship Division

The Guardianship Division determines applications about adults in NSW, or adults who have property in NSW, who may be incapable of making decisions about their own affairs and need someone to be legally appointed to make those decisions for them.

4. Occupational Division

This division reviews government decisions about licensing for people in a range of occupations, including taxi drivers, real estate agents, tow trucks and motor dealers and repairers.

This division also hears complaints about the professional conduct of a number of professions, including legal practitioners, health practitioners and building professionals. It also hears pecuniary interest matters against local government officers and Aboriginal land councillors. Individual consumers with complaints of professional misconduct must raise these with professional associations, such as the Office of the Legal Services Commissioner, rather than NCAT

Application form

If you decide that you want to start proceedings in the NCAT, you will have to fill out an application form and then lodge it with NCAT. There are

different application forms for different types of disputes.

Although the information that you must provide on your form will depend on your dispute, you will at least have to provide details of:

- (a)** Your contact & postal details
- (b)** The respondent's name, address and contact
(The respondent is the person who you are having the dispute with)
- (c)** The orders you want NCAT to make
- (d)** The reason why you want those orders made

The application forms and other NCAT forms can be obtained from the NCAT website. If your matter is in the Consumer and Commercial Division you can lodge your application online at <http://www.ncat.nsw.gov.au/>.

Fees and charges

You will be required to pay a fee when lodging your application form at the NCAT. Depending on your dispute, the fee will generally range from around \$47- \$200, and up to \$400 if you are lodging an appeal. If your matter is in the Guardianship Division, there will be no fee payable.

If you are a pensioner, student receiving an allowance, or you are receiving legal aid from Redfern Legal Centre or another community centre, you may be eligible for a reduced fee.

Jurisdiction

Jurisdiction refers to the power of a particular tribunal to deal with disputes. It is important to note that NCAT only has jurisdiction to resolve particular disputes where legislation provides it with this power.

It is important to check that NCAT has the power to deal with your dispute before you lodge your application form.

Resolving your issue

After your application is lodged, NCAT administration will assess whether it has jurisdiction to deal with your claim, and whether you have correctly filled out the required details on your application form.

At any point during the process, even after you have lodged your application, you should consider whether an informal discussion with the respondent might be all it takes to reach a resolution. If you do resolve the dispute, you are free to withdraw your application, or give NCAT "consent orders" (a document that records your agreement)

Once NCAT confirms that your application is properly commenced, if you haven't reached a resolution with the respondent, NCAT will help you to try to resolve your dispute using a number of different dispute resolution mechanisms. These are:

1. Preliminary Sessions

If your issue is within the Administrative and Equal Opportunity Division, you will have to first attend a preliminary session. At a preliminary session, an NCAT member will discuss what the issue is between you and the other party, and may help you resolve this issue.

2. Conciliation & Mediation

In some NCAT divisions, you may be asked to attend a conciliation or mediation. Both conciliation and mediation may help you and the other party come to an agreement about your dispute. The difference between the two is that mediation involves a third party mediator, who will help you discuss your dispute with the other party. In major NCAT consumer and Commercial Division hearing venues NCAT conciliators may be available to assist the parties to reach an agreement.

3. Hearing

If you are unable to reach an agreement to settle

your claim your issue might result in a hearing, where an NCAT member will make a decision about your issue.

Preparing for hearing

A hearing is more formal than a preliminary session, conciliation, or mediation, and so there are some important things you need to think about in preparation.

To prepare for your hearing, you should make sure to do a number of things:

- (a)** Write down your issues and start thinking about the evidence you need to bring to the hearing.
- (b)** Write down a timeline of everything that has happened in relation to your issue.
- (c)** Collect all the documents and other things that you are going to use as evidence of your case. You might want to organise them in a folder, too.
- (d)** Practise presenting your points and sticking to the facts.

What happens at the hearing?

At the hearing, the NCAT member will ask questions about your application and both you and the other party will show them your evidence.

After all the evidence is given, the NCAT member will make a decision about your issue, in accordance with the law.

Orders

After the hearing, NCAT will make a decision and orders about your case. NCAT may decide to make the full/partial orders that you have sought, or dismiss your application. An order must be complied with and is legally enforceable.

If the orders in your favour are not complied with, there are a number of enforcement options you can take.

1. Warrant of Possession

If a lease has been terminated and the tenant does not vacate, you can ask NCAT to provide you a warrant of possession.

2. Enforcing Money Order

If the other party has not paid you money that you are owed, you should ask NCAT for a "certified copy of the order". You can then take this order to the Local Court for an enforcement action.

3. Renewal of Proceedings

If a work order is made in your favour and the order is not complied with within the period specified by the Tribunal, you can apply to NCAT to renew proceedings.

Further information

You can contact NCAT on 1300 006 228 from 9:00am to 4:00pm Monday to Friday for any questions you may have.

The NCAT website is at: <http://www.ncat.nsw.gov.au>

Produced by Redfern Legal Centre. This factsheet is no substitute for legal advice. If you have a problem please seek legal advice from your local community legal centre.