

The Repair Kit

Getting FACS Housing to repair your home A legal guide for public housing tenants in NSW

Acknowledgements

This Kit was produced by the Inner Sydney Tenants' Advice and Advocacy Service housed within Redfern Legal Centre. It is designed to assist residents living in public housing, and their support workers, to understand their rights and responsibilities and the process to get repairs done.

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Disclaimer: This guide is relevant for NSW, Australia only and is correct at June 2019. The information in this guide is general and not intended to be a substitute for legal advice. Every specific situation is different so you may need individual advice. Further advice for tenants is available from your local Tenants' Advice and Advocacy Service or Community Legal Centre (see Contacts and useful websites at the end of this guide). There are also factsheets at www.tenants.org.au

This guide can be downloaded at rlc.org.au

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Part 1: FACS Housing's responsibility to repair your home

Under the *Residential Tenancies Act 2010*, FACS Housing has a duty to provide and maintain your home in a reasonable state of repair.

What is **reasonable** will depend on the facts of each case.

FACS Housing's responsibility covers all parts of your property. It will usually include the common areas like hallways, elevators and gardens.

FACS Housing's responsibility at the start of your tenancy

FACS Housing has a duty to make sure your home is in a reasonable state of repair and reasonably clean at the beginning of your tenancy. All repairs should be done before you move in.

Moving in – the condition report

You should be given a condition report when you move in.

Fill in the condition report carefully. Have a good look through every part of your home and make notes of things like stains on the carpets and marks on the walls. If something is not clean or not in good condition, write this in the condition report and take photos if you can.

The condition report forms part of your tenancy agreement.

At the end of the condition report, you can write a list of all the repairs that need doing. You need to return one copy of the condition report to FACS Housing within 7 days of moving in, but don't assume that FACS Housing will read it.

You should also call the Housing Contact Centre to report each repair (see Part 2: Reporting a repair issue to FACS Housing).

FACS Housing's responsibility during your tenancy

FACS Housing also has a duty to maintain your home in a reasonable state of repair for the duration of your tenancy.

If your home needs repairs done, it is important that you report this to FACS Housing as soon as possible (see Part 2: Reporting a repair issue to FACS Housing).

You have a legal obligation to report repairs to FACS Housing.

Once FACS Housing knows about the need to do a repair on your home, it needs to fix it in a reasonable amount of time. If it doesn't do the repair in a reasonable amount of time, it is breaching your tenancy agreement and the *Residential Tenancies Act 2010* (NSW).

What FACS Housing does not have a responsibility to do

FACS Housing **does not** have a responsibility to:

- Repair damage caused by you or your visitors (you still need to report this damage to FACS Housing and pay the cost of the repairs)
 or
- Do renovations or improvements to your home (above what is required to keep your home in a reasonable state of repair).

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Modifications to your home

Sometimes you might need changes to be made to your home to accommodate your disability or your changing health needs. For example, you might need handrails and ramps installed.

FACS Housing will usually have a responsibility to make these changes.

If your home needs modifications, you need to contact FACS Housing and fill out a request form. You will need a letter from your doctor and sometimes you will need a report from a specialist like an occupational therapist. FACS Housing must follow its Modifications Policy when considering your request. This policy is available on its website.

If you are having trouble getting FACS Housing to make modifications to your home, contact your local Tenants' Advice Service for more advice (see Contacts and useful websites at the end of this kit).

Your responsibility as a tenant

You have a duty under the Residential Tenancies Act 2010 (NSW) and under your tenancy agreement to:

- Keep your home reasonably clean.
- Report any damage to your home to FACS Housing as soon as you can.
- Not cause damage to your home. You are also responsible for any damage that your visitors do to your home.
- At the end of your tenancy, leave your home in the same condition as it was at the start of your tenancy, except for normal wear and tear.

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Part 2: Reporting a repair issue to FACS Housing

You can phone FACS Housing's Contact Centre on 1300 468 746. This is sometimes called the Maintenance Line. This phone line operates 24 hours a day, 7 days a week, all year round.

If you go to your local FACS Housing office, there should be a telephone with a direct link to the Housing Contact Centre you can use.

If you tell your FACS Housing Client Service Officer about a repair, it might not be recorded in FACS Housing's computer system and the information might get lost. Always report the repair to the Housing Contact Centre as well.

During the call you should:

- **Explain:** what needs repairing in as much detail as possible
- Ask: when the repair will be done
- Ask: for the job reference number
- Write down:
 - the date and time of your call
 - the name of the person you spoke with
 - what you discussed
 - the expected response time
 - the job reference number.

Write down this information every time you make a call to the Housing Contact Centre. Keep these written notes in the same place or write them in a diary.

Reporting a repair on the internet: eRepair

You can also report a repair issue to FACS Housing by using eRepair.

If your repair is urgent, you should call the Housing Contact Centre. Do not use eRepair.

To access eRepair go to www.housing.nsw.gov.au and write "eRepair" in the search bar at the top of the page. Once your repair is logged with eRepair, the job reference number and expected wait time can be sent to you in an email.

What can you expect FACS Housing to do after you report?

In most cases, the Housing Contact Centre will decide how urgent your problem is and tell you when you can expect the repair to be done.

After you have reported the problem, a tradesperson might contact you directly to come and do the repair.

Sometimes, a tradesperson or a FACS Housing representative will need to inspect the problem first and return another time to fix it.

FACS Housing's expected response times are:

- **Between 2–8 hours** for maintenance problems that immediately threaten your health, safety or security and need action at once (for example electrical danger, gas leaks or indoor sewer overflows).
- **Between 24–48 hours** for problems that threaten your safety or security and need action quickly and for essential items that have been broken (for example no working lights inside, blocked drains outside or an essential service such as hot water or a stove).
- **Up to 20 days** for general repairs that need to be done to keep things in good working order that cannot wait for the planned program of works (for example, making windows easier to open or close).

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Planned program of works

FACS Housing might not give you a response time and say that the repair will be done as part of the "planned program of works" for your home.

This means the repair will be done in the future as part of FACS Housing's longer-term plan for maintaining your home.

This could mean waiting several months or years for the repairs to be done.

Even if you are given a time for when the next "planned works" will be done on your home, it might end up taking a lot longer.

For minor, non-urgent repairs (such as fixing cracked tiles on a bathroom wall) it may be reasonable for FACS Housing to say you have to wait for the repairs to be done as part of the planned program of works.

But if you think the repair should be done more quickly, there are further steps you can take (see Part 4: Applying to the NSW Civil and Administrative Tribunal; and Part 8: What else can I do?).

Repairs should be made within a reasonable time

FACS Housing must do repairs in a reasonable amount of time after they are reported.

What is reasonable depends on the facts of each case. The more serious the repair, the faster it should be fixed.

You might have the right to have your repairs done more quickly if:

- You think the response time given to you when you call the Housing Contact Centre is unreasonable or
- You are told the repair will be done as part of the planned program of works and you think this is unreasonable.

What if the repair still has not been completed?

If you report a repair issue to FACS Housing and it is not fixed in a reasonable amount of time, there are further steps you can take. One option is to go to NCAT (see Part 4: Applying to the NSW Civil and Administrative Tribunal; and Part 8: What else can I do?).

BEFORE you take these steps, call the Housing Contact Centre again and explain the problem you are having.

It can be frustrating to have to call the Housing Contact Centre a second or third time, but it might save you time in the long run.

You should call the Housing Contact Centre again if:

- The repair has not been completed in the timeframe you were given when you first called
- The repair gets more serious while you are waiting for a tradesperson to come and fix it
- The tradesperson didn't come when they said they would
- A tradesperson inspected the problem but has not returned to fix it in a reasonable time
- The tradesperson has done a bad job fixing the repair
- The original repair issue has returned after it was fixed.

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Part 3: Urgent repairs

For some urgent repairs, you may have the right to pay up to \$1,000 to have the repair done yourself if FACS Housing is taking too long to do it. FACS Housing must then repay you the money.

WARNING

There are risks involved with paying to have urgent repairs done yourself. If you don't follow the correct steps, you might not get your money back.

Steps for urgent repairs

Make sure you follow all these steps if you want to be reimbursed for paying to have urgent repairs done yourself.

Step 1: Make sure the repair is an urgent repair

Urgent repairs are defined in the Residential Tenancies Act 2010 as:

- a burst water service
- an appliance, fitting or fixture that uses water or is used to supply water that is broken or not working properly and is wasting lots of water
- a blocked or broken toilet system
- a serious roof leak
- a gas leak
- a dangerous electrical fault
- flooding or serious flood damage
- serious storm or fire damage
- a failure or breakdown of the gas, electricity or water supply to your home
- a failure or breakdown of any essential service in your home for hot water, cooking, heating, cooling or laundry
- any fault or damage that makes your home unsafe or insecure.

Only these repairs are considered urgent repairs under the law. The damage that you want repaired cannot have been caused by you or your visitors.

Step 2: Reported the repair to FACS Housing

You must report the need for the urgent repair to FACS Housing first (see Part 2: Reporting a repair issue to FACS Housing).

Step 3: Give FACS Housing a reasonable opportunity to do the repairs

You must allow FACS Housing a reasonable opportunity to do the repairs before you get your own tradesperson to do them. This includes letting people enter your home so the repairs can be done.

What is a reasonable opportunity will depend on the facts of each case. For example, it was not reasonable for a tenant to be told to wait 72 hours for a broken water pipe to be fixed when the broken pipe was causing serious flooding inside the house.

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Step 4: Get a licensed tradesperson to do the repair

You must get the repairs done by a licensed or properly qualified tradesperson. You will be repaid only if the cost is reasonable. It is always a good idea to compare prices and get more than one quote to make sure the cost of repair is reasonable.

Step 5: After the repair is done, write to FACS Housing and provide receipts

As soon as possible after the repairs were done, you must write to FACS Housing asking to be reimbursed. You must give full details of the repairs, how much they cost and include copies of receipts from the tradesperson (see sample letter below).

Important things to remember

You must follow all of these steps carefully if you want to be reimbursed for urgent repair work. If you don't follow these steps, you might not get your money back.

Keep a copy of all receipts, notes and letters.

FACS Housing has to pay you within 14 days of you requesting, in writing, to be reimbursed for the cost of the repairs.

You can only be reimbursed up to \$1,000.

There is a risk that FACS Housing may disagree that it owes you the money. You may have to apply to NCAT to get an order that FACS Housing reimburse you (see Part 4: Applying to NSW Civil and Administrative Tribunal).

You have three months to make the application to NCAT. This three-month time limit begins either:

- When you are notified by FACS Housing that it will not reimburse you, or
- At the end of the 14-day time period in your request if FACS Housing does not respond.

Sample letter

Dear FACS Housing,

Re: Burst pipe at (address of property) (Job reference number: 12345678)

I write to ask to be repaid the cost to repair a burst water pipe on my property.

On 7 July 2018, at 8pm, I called the Housing Contact Centre and reported that my water pipes had burst, flooding the bathroom and the corridor. They told me that a contractor would come to repair the pipes within 72 hours. As the water had already soaked my hallway and was about to flood the bedroom and lounge room, I told them that I could not wait 72 hours. When they kept saying that this was how long I had to wait, I called an emergency plumbing service.

I enclose the invoice for the emergency plumbing service for \$740. Please pay me back within 14 days.

Yours sincerely,

(your name and address)

(date)

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Part 4: Applying to the NSW Civil and Administrative Tribunal

You can make an application to the NSW Civil and Administrative Tribunal (NCAT) if:

- You have reported the repair issue to FACS Housing and it has not been fixed in a reasonable time
- You have made an urgent repair and followed the steps in Part 3: Urgent repairs, and FACS Housing hasn't paid you back within 14 days.

Remember

Before applying to NCAT, you should call the Housing Contact Centre again to explain the problem you are having and see if it can be resolved. It can be frustrating to have to call the Housing Contact Centre a second or third time, but it might save you time in the long run.

You can also apply to NCAT for a rent reduction order or for an order that FACS Housing pays you compensation (see Part 5: Rent reduction and compensation claims).

About NCAT

NCAT hears disputes about repairs and maintenance between tenants and landlords. It is set up to be informal, quick and affordable.

You do not need a lawyer to go to NCAT. You can make an application to NCAT and represent yourself. Although representing yourself may seem frightening, you can expect to have your case heard and decided fairly and according to the law.

To have your dispute heard by NCAT, you will need to lodge an application form and pay an application fee.

How to make an NCAT application online

- 1. Go to the NCAT website at www.ncat.nsw.gov.au
- 2. Click Making an Application
- 3. Under the heading Forms, click Consumer and Commercial Division
- 4. Under the heading Application Forms, click Social Housing Application
- 5. Click Apply Now
- 6. Click the large blue square box which says Apply Online.

If you choose this option you will need to use a credit or debit card to make online payment.

How to make an application using a paper form

You can get a copy of a **Social Housing Application** form by downloading and printing it from the NCAT website, or collecting it in person from an NCAT Registry, a Services NSW Office, or your local Tenants' Advice and Advocacy Service.

You can post the completed application form and the application fee to your local NCAT registry or deliver it in person. See the NCAT website for the address of your nearest NCAT registry.

Completing the application form

You only need to complete the first three (3) pages of the application form. Below is an example of what a completed application form should like. Reproduced with the permission of the NSW Civil and Administrative Tribunal. This information must not be relied on as legal advice. For more information about this topic, please refer to the appropriate legislation.

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Social housing application

CONSUMER AND COMMERCIAL DIVISION | SOCIAL HOUSING LIST

Complete this form to apply to NCAT's Consumer and Commercial Division for orders under the *Residential Tenancies Act 2010* to resolve a social housing dispute. Social housing applications can also be lodged online with <u>NCAT Online</u>.

File Number

Office	use	only
--------	-----	------

1.	RENTED PR	EMISES		
A.	A. ADDRESS OF RENTED PREMISES Provide the address of the house or unit that is the rental property, as it appears on the residential tenancy agreement.			
	Address: YO	ur address		
В.	. RENTAL BOND NUMBER Leave blank			
C.	. REAL ESTATE AGENCY DETAILS If applicable, provide name and address of agency managing the rented premises.			
	Agency name: Leave blank			
	Agency address:			
D.	. RELATED FILE NUMBERS List any previous NCAT file numbers relating to the parties and the current dispute:			
E.				
	Are you makin	g this application because of t Write other NCAT file numbers here if you have made an application against FACS Housing (NSW Land and Housing Corporation) in the past		
	Is this applicat	ion about a Domestic Violence for the same issue, or if NSW Land and Housing Corporation has made an application against you that is currently being heard by NCAT.		
2.	APPLICANT			
A.	APPLICANT TYPE	<u>:</u>		
	Tick the box that be	est describes the person lodging the application to the Tribunal.		
	Housing NSW	Community housing Aboriginal housing You don't need to give a phone		
	X Tenant	Co-tenant Other (p) number but it is a good idea to provide one in case NCAT has to		
В.	contact you urgently			
		person or company applying to the Tribunal. For multiple applicants attach details on a parate sheet. utes attach landlord's details on a separate sheet.		
	Full name: Your name			
	Postal address:	The address where you want letters sent to		
	Contact details:	Your phone number (optional)		
	Email address: *	Your email if you prefer to be sent notices here		
		y providing an email address you are agreeing that any NCAT notices, ord as and correspondence can emailed to you. Ensure the email address provided is accurate and the accurate is checked regularly.		
		notices sent and does not need to be your home You don't need to provide an email		

This is where you want notices sent and does not need to be your home address. WARNING: It's very important to not miss notices sent by NCAT, so make sure you check your letterbox or PO Box frequently.

You don't need to provide an email address unless you want NCAT to send you notices by email.

DECDONDENT

ა.	KESPUNDE	IN I		
A.	A. RESPONDENT TYPE Tick the box that best describes the person you are making the applicant against. You can use the address of NSW Land and Housing			
	X Landlord	Tenant Co-tenant For	mer t Corporation's head office or your local office.	
	Landlord's age	ent (s.61 & 134 only) Mortgagee Occ	cupar	
В.	RESPONDENT'S	DETAILS		
	Who is the applica details on separate	ation against? Provide the respondent's name and their postal addite sheet.	s. For multiple respondents attach	
	Full name:	NSW Land and Housing Corporation		
	Postal address:	PO Box 4009, Ashfield BC, NSW 1800		
	Contact details:	Daytime telephone 8753 9000 Mobile Leave bla	nk \	
	Email address:	Leave blank	You don't need to include an	
			email or mobile number here.	
4.	ORDER DET	TAILS You need to write the orders you are asking NCAT to ma number of the orders. There is a full list of orders and the		
Α.	WHAT ORDERS I	at the back of the application form. Some examples are		
	Write down the se	ion for sections of the Act and types of orders that can be made.	ant the Tribunal to make. Refer to the	
	Section 65(1)(a) - an order that my landlord immediately repair the leaking roof in the bedroom and fix and repaint the wet plasterboard Section 44(1)(b) - an order that my rent is reduced by 50% for the time I couldn't use my bedroom because of the leaking roof			
		d) - an order for compensation in the amount of \$500		
_				
R	WHAT ARE YOUR	IR REASONS FOR ASKING FOR THE ORDERS?		

You must explain why you are lodging this application and asking for Tribunal orders by providing as much information as possible. If the space below is insufficient you can attach additional information to this form.

The roof in my bedroom has been leaking. The ceiling and walls are wet and mouldy. I first reported the problem to FACS Housing on 20 September 2018 by calling the Maintenance Line.

After I called, a tradesperson came to look at the leak but didn't fix it.

For the past 4 months, I haven't been able to use my bedroom because of the damp and mould in the bedroom. I have been sleeping on the couch and have moved all of my clothes into the lounge-room of my small apartment. I am asking for a 50% rent reduction from 20 September 2018 until the leak is fixed.

My new mattress is damp and mouldy. I haven't been able to move it from the room and it has gotten so bad that I will have to throw it out. I bought it just 6 months ago and paid \$500.

You should explain why you are asking for the orders. You don't need to go into great detail but you should include:

- a brief description of the repair issue
- when and how you first reported the issue to FACS Housing
- what has or hasn't been done to address the repair
- amounts you are asking for and why you think they are reasonable.

You can attach more pages to the back of your form if you need to.

5.	LAN	GUAGE AND DISABILITY SUPPORT			nge for an interprete	
Α.	SUPPO	ORT REQUIREMENTS	at	your hearin	g. This is a free servic	e.
	Indicate	ate whether you have a disability-related need or other request for support at the hearing.				
В.	INTERI	PRETER				
	Do you	need an interpreter for the hearing?	es (specify language): Russ	ian	
		need to provide all of your evidence with your application the application and bring your evidence to your first he				
6.	APP	LICATION CHECKLIST	_			
X	Include notices	e attached all other documents relevant to this e all relevant information with your application. Relevants, letters and other correspondence, quotes, invoices ext to the respondent.	nt documents may in tc. Note: A copy of t Th	his applicat is is importa		ents will py of
X		I have made a copy of this application for my own records send to NCAT and keep them for yourself. Before lodging your application with NCAT you must make a copy of your application for your own records.				
X	Refer to form we Civil a Centre of the form of the for	I have attached the application fee Refer to the fee schedule on the NCAT website. Credit card payments can be made by submitting a credit card authority form with your application. Credit card surcharges apply. Cheque or money order payments are to be made out to 'NSW Civil and Administrative Tribunal' or 'NCAT'. Payment can be made in person at any NCAT Registry or Service NSW Centre. Concession fee applicants must provide a photocopy of their concession card. If you are unable to pay the concession fee or are not eligible, NCAT may consider waiving the fee fully or partially. To				'NSW SW
7.	·	st a fee waiver please complete the <u>fee waiver request</u>	ionn.			
App	Applicant's signature or signature of representative.				1	
Name Your name						
Signature				Date	Date	
For 130 Ple	NCAT (0 006 2: ase only	ur Application with the fee at your nearest NC/Consumer and Commercial Division Registry locations 28 or visit www.ncat.nsw.gov.au. y s bmit pages 1-3 of this form with any attachmen attorned alow is a guide to assist you and DOES NOT form	visit the <u>NCAT webs</u>	application		ione

You must pay an application fee when lodging your application. At the time of publication, the application fee for a Social Housing Application is \$13 for most people who receive a Centrelink payment. You need to provide a copy of your Pension or Health Care Card if you want to receive the concession fee. If you do not qualify for the concession fee, you will have to pay \$50. It's a good idea to call NCAT or check its website before you lodge your application to check if the application fee has changed.

What to expect at NCAT

Once you lodge your application, NCAT will send you a 'Notice of hearing' which tells you the date, time and location of your hearing. NCAT will send the same notice and a copy of your application to FACS Housing.

You should go to your NCAT hearing with a copy of your NCAT application and copies of all of your evidence.

If it is the first hearing of your NCAT application, you will be asked to go into a conciliation with FACS Housing. This means that you and someone from FACS Housing will sit down together and see if you can negotiate an agreement. NCAT provides conciliators who can help you reach an agreement. Sometimes, a tenants' advocate from a Tenants' Advice and Advocacy Service might be available to give you advice and help you negotiate with FACS Housing.

If you come to an agreement with FACS Housing at the conciliation, the agreement is written down and made into enforceable orders.

If you cannot come to an agreement, it is possible that NCAT will hear your case on the same day – so it's important to have your evidence ready. It is also possible that NCAT will adjourn your matter to be heard on a later date – this means you will have to come back to NCAT (usually three to seven weeks later) to have your application decided.

If your repairs are urgent, you can ask NCAT to make orders about repairs at the first hearing and adjourn the rest of your application (such as the parts that are about rent reduction and compensation) to a later date.

Sometimes, FACS Housing doesn't send a representative to NCAT and sometimes FACS Housing sends a person who doesn't have the authority to negotiate with you. If this happens, you will have to ask NCAT to make a decision. You should also make a complaint to FACS Housing if this happens (see Part 8: What else can I do?).

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Part 5: Rent reduction and compensation claims

If FACS Housing has failed to maintain your property in a reasonable state of repair you may be able to claim a rent reduction or compensation.

Rent reductions

You might be entitled to a rent reduction if FACS Housing has allowed your home to fall into a poor state of repair.

Your claim for a rent reduction is stronger if you can show that you **can't use part of your home** because FACS Housing hasn't done repairs. For example, if you can't cook because the stove is broken or you can't use a bedroom because it is so mouldy.

You might also be entitled to a rent reduction if the **general amenity of your home** has been affected because FACS Housing hasn't done repairs.

If FACS Housing is taking too long to do repairs, you should ask it to reduce your rent from the time you first reported the repair issue until the repairs are completed. If FACS Housing agrees to reduce your rent outside of NCAT, you should get the agreement in writing.

Applying to NCAT for a rent reduction

If FACS Housing doesn't agree to reduce your rent (or if it doesn't respond to your request for a rent reduction), you can make an application to NCAT for an order reducing your rent (see Part 4: Applying to NSW Civil and Administrative Tribunal).

IMPORTANT

If you apply to NCAT for a rent reduction order, you must make your application **before your tenancy ends** (ie. before you move out).

NCAT can "backdate" a rent reduction. This means that your rent reduction can begin from the day you first reported the issue to FACS Housing. But a rent reduction ordered by NCAT can only last a maximum of 12 months so it's best to lodge your application as soon as possible.

On your NCAT application form, you should write:

- What percentage of your rent you want back (ie. 30%)
- How long the rent reduction should last for (ie. from the day you first reported the repair issue until the day the issue is fixed)
- Why you think this percentage is reasonable (ie. what parts of the property couldn't you use or how has the general amenity of the property been affected?)
- How much your normal rent has been for the period you are claiming a rent reduction (bring your FACS Housing rent statements so NCAT knows how much rent you've been paying).

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Examples of rent reductions ordered by NCAT

15% because the large garage in the property collapsed and the tenant couldn't use the garage and parts of the backyard.

75% because there were bad water leaks and mould in the only bedroom of the apartment and the tenant had to sleep on her couch for six months.

35% because the lifts in the property were not working for a period of time and the tenant had to climb six flights of stairs to get to their apartment.

10% because one bathroom couldn't be used by the tenants (when there were two bathrooms in the property).

Compensation

You might be entitled to compensation if:

- 1. FACS Housing knew (or ought to have known) about the need to do repairs on the property AND
- FACS Housing failed to do the repairs with due diligence once they knew about it (ie. by not doing a decent job on the repair or taking more than a reasonable time to do the repair)
 AND
- 3. Because of this, you suffered a loss (usually a financial loss).

Things you could be compensated for

Examples of things that tenants claim compensation for are:

- The cost of cleaning or repairing damaged goods and furniture
- The value of goods and furniture that have been destroyed and need to be replaced
- The cost of takeaway meals if you couldn't use cooking facilities
- Reasonable accommodation costs if the issue was so bad that you couldn't stay in the property
- Money you spent on your own tradesperson to fix the problem because FACS Housing was taking too long to do it.

Non-economic loss

In some limited circumstances, tenants may be able to claim compensation for non-economic losses such as disappointment or embarrassment that lead to a loss of enjoyment of the property. This is a complex area of law and you should seek advice from a Tenants' Advice Service (see Contacts and useful websites on page 32 of this guide).

Evidence to support a compensation claim

The types of evidence you might need to support your compensation claim at NCAT are:

- Job reference numbers or a written diary of the calls you have made to FACS Housing asking for the repairs to be done
- A statement from you or any witnesses about the history of the repair issue and the loss you have suffered because of it
- Photos and/or videos showing how severe the repair issue is
- Receipts, invoices and quotes for the cleaning or replacement of goods and furniture (a quote could include a print-out of webpages showing the price of goods and furniture similar to the ones that were destroyed).

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Limitations on compensation claims

Time limit: If you want to apply to NCAT for an order that FACS Housing pay you compensation, you have to make your application within three (3) months of FACS Housing failing to do the repair.

Extensions of the time limit: If you think you are outside this time limit you can still make an application to NCAT and ask for an extension of time at the first hearing. NCAT will consider how many days you are over the time limit and whether there is a good reason for your delay. A good reason might be that FACS Housing kept telling you it would come to do the repairs, but never did.

Jurisdictional limit: NCAT cannot award compensation of more than \$15,000. If your claim is more than \$15,000 you may be able to make an application to the Local Court. You should seek advice from your local Community Legal Centre.

Minimising your losses: You need to show that you have taken steps to minimise your loss. For example, NCAT might not award you any compensation for damage caused to your computer by a water leak if you could have prevented the damage by moving it to another part of the house.

Depreciated value: If you are claiming compensation for goods that are damaged or destroyed you will only receive their depreciated value. Unless the goods were new, you should expect to only get back some of the cost of replacing them.

Other options for claiming compensation from FACS Housing

If your belongings have been damaged or you have suffered an injury because FACS Housing has not done repairs to your home one option is to claiming compensation by submitting a **Tenant/Third Party Claim Form** to FACS Housing. You can get this form by requesting it from your local FACS Housing office.

When you lodge the form, an insurance company will deal with your compensation claim on behalf of FACS Housing. Although the form is simple to fill out, you still need to provide all the details and evidence to support your claim.

The insurance company could:

- refuse your claim
- ask you to provide more evidence
- offer you an amount of money to settle your claim.

IMPORTANT

You might not get the best result by claiming compensation through FACS Housing's insurance company.

If your claim is refused or the amount you are offered is too low, it might be too late to go to NCAT. Once you discover that your goods have been damaged you usually only have three (3) months to apply to NCAT for compensation.

If you have suffered an injury, you should see a personal injury solicitor before you claim compensation from FACS Housing.

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Part 6: How to get a copy of your FACS Housing file

Under the *Government Information (Public Access) Act 2009* you have the right to be given a copy of the information that FACS Housing holds about you and your tenancy. You can make an application to FACS Housing for a copy of the information on your tenancy file.

When should you request a copy of your file?

You may want to apply for a copy of your FACS Housing file if you want to bring a case to NCAT and, for example:

- You did not keep a full record of your telephone calls with FACS Housing and can't remember when you reported the problem. This information should be on your FACS Housing file.
- You believe that FACS Housing has information that may be useful to your case. For example, you know that FACS Housing had a professional building report done on your home and you want a copy for your case.

How to apply

You can make an **informal** request for your information, or a **formal** request for your information.

You can download the **Informal Request for Information** form or the **Formal Access Application** from FACS Housing website.

- 1. Go to www.facs.nsw.gov.au
- 2. Click Housing and Homelessness
- 3. Click Forms
- 4. In the box put Right to Information.

Or you can also ask for a copy of this form from any FACS Housing office, or from your local Tenants' Advice and Advocacy Service (see Contacts and useful websites on page 32).

Informal or formal request?

Informal requests work well if there is a specific document you are requesting. If you are asking for a larger volume of information you may need to fill out a Formal Request for Information.

How to fill in the forms

In the section of the form headed 'Information Needed' tick both boxes ('Personal' and 'Non- Personal') and describe the information you need. For example, you might ask for: "All information held by FACS Housing relating to the burst water pipe at [your address]." If there is not enough room on the form you can attach another piece of paper.

When you have completed the form, you should post it or deliver it to FACS Housing at the address shown on the form. Remember to keep a completed copy of the form for your records. The form is free to lodge. Keep in mind that it can take several weeks for FACS Housing to respond to an informal request for information.

Formal Request for Information

If it takes FACS Housing more than two (2) hours to deal with your request (because of the amount of information that falls under your request), you may need to complete a **Formal Request for Information** form. A Formal Request for Information form has an application fee of \$30 (or \$15 if you provide a copy of your Centrelink Pension or Health Care Card). You can fill it out in the same way described above.

If you lodge a Formal Request for Information Form, FACS Housing must respond to the application within 20 working days (although it is allowed to take longer in some cases).

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Part 7: What to do if FACS Housing does not follow NCAT repair orders?

If NCAT makes orders for FACS Housing to do repairs and FACS Housing fails to do the repairs by the date ordered by NCAT, you have a few options.

Take FACS Housing back to NCAT

You can bring FACS Housing back to NCAT and ask for further orders (like a larger rent reduction or more compensation) by lodging a **Notice to Renew Proceedings** form with NCAT. You will have to pay an application fee (\$50, or \$13 for Centrelink recipients at the time of publication, but note that this fee does change, so check the NCAT website for up-to-date information).

If the NCAT orders included a **right to relist** the matter if the orders aren't complied with, you can simply write to NCAT asking it to relist the matter. No application fee is required.

Other options

It is against the law for FACS Housing to fail to comply with an NCAT order for repairs unless it has a reasonable excuse.

FACS Housing may be in contempt of the Tribunal if it fails to comply with an NCAT order for repairs. It might also be possible for NCAT to order that FACS Housing pay a civil penalty (a fine) for not complying with NCAT orders.

If you are considering taking this type of action, you should get advice from a Tenants' Advice and Advocacy Service.

Another good option if FACS Housing fails to comply with an NCAT order is to make a complaint to the NSW Ombudsman (see Part 8: What else can I do?).

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Part 8: What else can I do?

There are other options available that might help to get your repairs done.

Make a complaint to FACS Housing

You can make a complaint to FACS Housing about your repairs issue. Examples of common complaints are:

- Repairs weren't done in a reasonable time
- Repairs weren't done at all
- A repair job was done badly
- A tradesperson was late to an appointment or didn't show up
- A tradesperson came to your property without giving you any advance notice
- A tradesperson treated you disrespectfully
- You were given wrong information
- FACS Housing didn't attend an NCAT hearing
- FACS Housing refused to negotiate at an NCAT conciliation
- FACS Housing didn't comply with NCAT orders.

You can make a complaint to FACS Housing by:

- Calling the Housing Contact Centre on 1800 322 422
- Emailing your complaint to feedback@facs.nsw.gov.au
- Using the feedback widget at https://www.facs.nsw.gov.au/about/contact/complaints (the blue box on the right edge of the screen)
- Writing to FACS Client Feedback Service, Locked Bag 7150, Liverpool BC, NSW 1871.

Contact the NSW Ombudsman

You can contact the NSW Ombudsman to make a complaint that FACS Housing has behaved unreasonably when it comes to doing repairs and maintenance on your home. The NSW Ombudsman will want to see that you have tried to resolve your complaint with FACS Housing first before it gets involved.

If your complaint to FACS Housing didn't help you or if FACS Housing didn't comply with NCAT orders, a good next step is to complain to the NSW Ombudsman.

You can make a complaint to the NSW Ombudsman by telephone or online:

- Telephone 02 9286 1000 or 1800 451 524
- Complete the online complaint form at https://www.ombo.nsw.gov.au/complaints/complaint-form

Disability discrimination complaint

FACS Housing's failure to repair your home may have a more serious impact on you if you have a disability. A disability can be physical, psychological or intellectual. In some cases this may be a breach of anti-discrimination laws.

You can make a complaint of disability discrimination against FACS Housing to either:

- The Australian Human Rights Commission (AHRC), or
- The NSW Anti-Discrimination Board (ADB).

Although the complaints process is similar in both of these bodies, there are important differences that you should be aware of when choosing which body to complain to. For example, you only have 6 months to make a complaint to the AHRC whereas you have 12 months to make a complaint to the ADB. You should get legal advice before lodging a complaint by contacting your local Community Legal Centre (see Contacts and useful websites on page 32).

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To make a complaint to Australian Human Rights Commission (AHRC):

- You can fill in an online complaint form, available at: https://www.humanrights.gov.au/complaints/make-complaint
- You can email your written complaint, along with any relevant documents, to: newcomplaints@humanrights.gov.au
- Or you can post to Director, Investigation and Conciliation Service Australian Human Rights Commission GPO Box 5218 Sydney NSW 2001.

You must include your name, address and, if possible, a phone number so AHRC can contact you.

If you are not able to reach agreement with FACS Housing through the AHRC conciliation process, you may be able to pursue your matter in the Federal Court or Federal Circuit Court. The losing party pays the winning party's legal costs.

To make a complaint to the NSW Anti-Discrimination Board (ADB)

You can get a copy of a complaint form at: http://www.antidiscrimination.justice.nsw.gov.au/Pages/adb1 makingacomplaint/adb1 makingacomplaint.aspx

You can post, fax or deliver your complaint form to the Board, or email it using the following details:

Post: PO Box W213, Parramatta Westfield NSW 2150

Fax: (02) 9268 5500

Street address: Level 7/10 Valentine Avenue, Parramatta NSW

Email: complaintsadb@justice.nsw.gov.au

If you are not able to reach agreement with FACS Housing through the ADB conciliation process, you may be able to pursue your matter in the NSW Civil and Administrative Tribunal by way of a formal hearing. Each party usually pays their own legal costs.

Case study: repairs and discrimination

John Smith* was a tenant of FACS Housing. John had very bad asthma. Heavy mould growing in his home meant he was at risk of constant asthma attacks. When FACS Housing did not transfer him to another property 10 months after it had agreed to do so, he made a complaint of disability discrimination to the Australian Human Rights Commission.

John entered into conciliation with FACS Housing. The conciliation allowed John and FACS Housing to reach an agreement with the help of an AHRC conciliator. As a result, John received Private Rental Subsidy assistance to move house as well as a payment for pain and suffering.

*Name changed for client's privacy.

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Contact the Minister responsible for FACS Housing or your local Member of State Parliament

You can make your complaint about FACS Housing to the Social Housing Minister or your local member of State Parliament. Again, it is best to first try to resolve your issue directly with FACS Housing before taking this step.

To make a complaint to the Minister for Families, Communities and Disability Services:

Write: Minister for Families, Communities and Disability Services, GPO Box 5341, Sydney NSW 2001 Online form: First go to https://www.nsw.gov.au/your-government/ministers/ and click on the Minister for Families, Communities and Disability Services. This will take you to an online contact form.

To make a complaint to your local Member of State Parliament:

Find what State District you are in by going to: https://roll.elections.nsw.gov.au/areafinder

Then visit the NSW Parliament website for a list of all local Members at:

https://www.parliament.nsw.gov.au/members/Pages/all-members.aspx

Then scroll down the list to find the Member for your State District and their contact details.

Sample letter

Dear Minister,

Re: FACS Housing Repair Issue.

My name is [your name] and I am a FACS Housing tenant. I lease [your address]. Recently I told FACS Housing that [describe what needs repairing]. But FACS Housing has not fixed the repair problem and has said it will take [response time] to fix the repair. I think this response time is unreasonable.

FACS Housing's failure to fix the problem is causing me great difficulty and distress because I am forced to put up with the continuing repair problem.

Could you please look into this matter and help repair my home.

Regards,

[Your name, address and phone number]

Contact your Local Council

If your home is in an unsafe or unhealthy condition because FACS Housing has failed to make necessary repairs, your local council may be able to force FACS Housing to take action. Sewerage leaks, pests, pollution and mould are examples of things that can be reported to your local council. Most local councils will have an environmental health officer that investigates complaints about unsafe or unhealthy buildings.

You can find the contact details for your local council at: www.olg.nsw.gov.au/find-my-council

Get further advice

If you have read this guide but still need further advice, contact your local Tenant's Advice and Advocacy Service.

If you are an Aboriginal and Torres Strait Islander renter, you can also contact your local Aboriginal Tenant's Advice and Advocacy Services.

You can find your local Tenant's Advice and Advocacy Service by going to www.tenants.org.au and typing in your postcode.

There is also a list of phone numbers in the Contacts and Useful Websites section on page 32 of this guide.

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Part 9: Other information on how to keep your home healthy

Mould in the home

What is mould?

Mould is part of a group of very common organisms called fungi and it is present both indoors and outdoors. Mould may grow indoors in wet or moist areas lacking adequate ventilation. People with asthma, allergies or other breathing conditions may be more sensitive to mould. People with weakened immune systems or lung diseases are more at risk of mould infection particularly in their lungs.

Sight: The walls and ceilings may be discoloured, or show signs of mould growth or water damage.

Smell: There may be a musty odour.

- Activities in the home, such as cooking, showering or heating, can produce moisture/humidity. Ventilate the property regularly by turning on exhaust fans and opening windows (and doors, if safe to do so).
- Ensure that water leaks and plumbing problems are notified to the landlord as soon as they are noticed.

Safe cleaning

For routine cleaning of mouldy surfaces, use mild detergent or vinegar diluted in water solution (4 parts to 1 part of water). If the mould is not easy to remove and the item cannot be discarded, use diluted bleach (250ml of bleach in 4 litres of water) to clean the surface.

What if the mould keeps recurring?

If you have taken measures to ensure your home is properly ventilated and mould is still growing, you should report the issue with FACS Housing (see Part 2: Reporting a repair issue to FACS Housing). If FACS Housing does not fix the mould issue you should follow the steps outlined earlier in this kit.

Pest prevention and management in the home

In homes there are generally two types of pest issues:

- 1. Human parasites (e.g. head lice, scabies and bed bugs)
- 2. Other household pests (e.g. cockroaches, mosquitoes, rats and mice).

Human parasites

Parasites are organisms that feed on other living things, such as your family or your pets. Several types of parasites can live on or within the skin of humans and animals. These parasites may spread between animals and humans through close contact and some can cause human disease.

Head lice

Head lice are insects and can sometimes be found on the head, eyebrows, and eyelashes of people. Head lice feed on human blood and live close to the human scalp. Head lice are most common among primary school aged children and are spread by direct contact with the hair of an infected person. Head lice can usually be effectively treated by preparations available at your pharmacy. Head lice do not spread disease.

Bed bugs

Bed bugs are small, flat insects that feed on human blood. Bed bugs do not spread disease, but their bites can be itchy and be very annoying. Beg bugs can live in furniture, suitcases, clothing or other household items that are brought into the home. To prevent infestations of bed bugs, check any second hand items before bringing them into the home. A specialised pest controller is needed to treat the infestation.

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Bird mites

Bird mites, or "bird lice" are small insects which feeds on the blood of birds and humans. Bird mites do not transmit disease, however their bites can lead to severe itching and irritation, including rashes. Bird mites arise where birds are nesting, particularly around roof cavity, window ledges, awnings or similar structure in the house. Removing the bird's nest and then cleaning and blocking the area to prevent future birds nesting will help. Any remaining bird mites will die within three weeks. Domestic insect spray can also assist in killing the mites after the nest is removed.

For more information on pest management visit these websites:

- http://www.health.gov.au/internet/publications/publishing.nsf/Content/ohp-enhealth-manual-atsi-cnt-l~ohp-enhealth-manual-atsi-cnt-l-ch1.5
- http://www.health.nsw.gov.au/environment/pests/parasites/Pages/default.aspx

Other household pests

Mosquitos

Mosquitos breed in water that is found around the yard, such as unmaintained swimming pools, containers and bins, etc. To reduce mosquitos around your home keep your yard tidy, remove all rubbish, regularly flush out pot plant bases and other water containers and keep house guttering clear. Ensure you cover all windows, doors, chimneys, vents and other entrances with insect screens that are in good condition. FACS Housing has a responsibility to repair the flyscreens in your property if FACS Housing installed them or if they were then when you moved in. If you moved into a property without flyscreens, FACS Housing doesn't have a responsibility to install and maintain them.

Vermin (cockroaches, mice and rats)

Keep food preparation and storage areas clean and minimise the build-up of food scraps and household garbage. This includes food left out for the pets as food will attract vermin into the house. Seal any holes found in the walls, floors or ceilings of the house to prevent entry or hiding places for the vermin. Many options are available from the supermarket for chemical control of cockroaches. Keep receipts of any pest control items you buy. If taking these steps doesn't fix the problem, it is probably a repair issue that FACS Housing has to fix.

Fleas

Fleas are usually found on pets, such as dogs and cats. Fleas can be minimised around the home by keeping pets outdoors or regularly treating them for fleas. A vet can advise on the best flea control options for pets. Pre-treating the indoor floor surfaces and carpet with insecticides available from the supermarket before vacuuming and cleaning and help reduce flea populations, but it is important to properly dispose of the contents of the vacuum cleaner or treat the contents to kill the collected fleas.

If taking these steps does not fix the issue there may be an infestation and this should be reported to FACS Housing (see Part 2: Reporting a repair issue to FACS Housing). If you or your pets weren't the cause of the flea infestation, it is probably the responsibility of FACS Housing to fix it.

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Injury prevention in the home

Injury is a major cause of preventable death and disability in Australia. More than half of injuries that happen to children occur in the home.

What can you do?

- Kidsafe NSW has a variety of information sheets available to download here: http://www.kidsafensw.org/information-sheets
- Here are some top tips for child safety in the home:
 - Ensure any medicines or cleaning products are locked away or out of reach of children



- ✓ Install safety rails on stairs, guards for steps and put soft material under play areas
- Ensure children are always supervised around water
- ✓ Buy products safe for kids look for the Australian standard sticker
- Check household hot water does not exceed 50°C to help prevent burns and scalds.

Disease prevention in the home

Germs that cause human disease can be spread in different ways (e.g. through the air, through contact with people and other objects or through droplets from a person when they cough or sneeze, etc.).

What can you do?

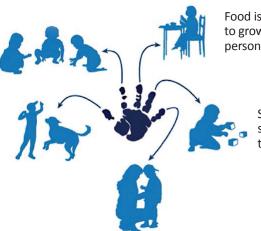
Reduce the spread of diseases in the home by ensuring:

- Regular hand washing
- Practising good coughing and sneezing practices (e.g. coughing into your sleeve and/or sneezing into a tissue and then washing hands thoroughly)
- ✓ That if you are sick, you avoid close contact with family members until you are better
- ✓ Regular cleaning of the common indoor surfaces, linen and other items used commonly shared in the household.

For more information on common infectious diseases, please visit the NSW Ministry of Health website here: http://www.health.nsw.gov.au/Infectious/factsheets/Pages/default.aspx

Germs are spread to the hands by sneezing, coughing or rubbing the eyes, and then transferred to other people and surfaces.

Germs can be present on the skin, hair, feathers and scales of animals and in their faeces, urine, saliva and mouths.



Food is an excellent place for germs to grow or be passed from one person to another.

Some germs can survive on surfaces such as bench tops, door knobs, taps and toys.

New South Wales

Bodily fluids including blood, faeces, urine, vomit and saliva may contain germs.

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Food safety in the home

A lot of food preparation happens at home. Food safety is just as important in the home as it is in restaurants or anywhere else.

Important tips for keeping food safe

Keep it cold

- ✓ Keep the fridge below 5°C and do not leave the fridge door open for long periods
- ✓ Put any food that needs to be kept cold in the fridge straight away
- ✓ Don't eat food that's meant to be in the fridge if it's been left out for two hours or more
- ✓ Defrost and marinate foods on the lowest shelf in the fridge, especially meats
- ✓ Shop with a cooler bag, picnic with an esky.

Keep it clean

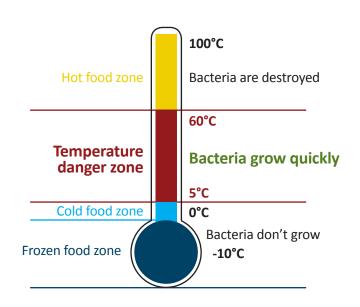
- ✓ Wash and dry hands thoroughly before starting to prepare or eat any food
- Keep benches, kitchen equipment and tableware clean and dry
- Don't let raw meat juices drip onto other foods
- ✓ Separate raw and cooked food and use different cutting boards and knives for both
- Avoid making food for others if you are sick.

Keep it hot

- ✓ Cook foods to at least 60°C
- ✓ Reheat foods to at least 60°C, until they're steaming hot
- ✓ Make sure there's no pink left in cooked meats such as mince or sausages
- ✓ Look for clear juices before serving chicken
- ✓ Boil all marinades containing raw meat juices before serving.

For more practical tips and hints on food safety in the home, visit this website here: http://www.foodsafety.asn.au

- The temperature danger zone is between 5°C and 60°C, when it is easiest for harmful bacteria to grow in food.
- Minimise the time that food spends at these temperatures in order to keep food safe.
- Refrigerated food needs to be kept at 5°C or below.
- Hot food needs to be kept at 60°C or above.



0 to 2 hours

Use immediately, or keep at or below 5°C, or at or above 60°C

2 to 4 hours
Use immediately

More than 4 hours
Throw away

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Materials and other hazards in the home

Buildings contain many different types of materials and associated chemicals. Unless managed properly, some of these materials can affect the health of families, people doing renovations, or your neighbours etc. If you are aware of these potential types of hazards, you can then take steps to reduce their impact. It is important to remember that materials such as lead paint or asbestos that are in good condition (e.g. not peeling or creating dust, or are sealed behind other materials can be relatively safe). If you are concerned or think your home is unsafe you should report it to FACS Housing.

Lead

Lead is a metal that was widely used in Australia until the early 1970s. When lead is accidentally eaten or breathed into the lungs (called lead poisoning), it can cause health problems especially in young children – it affects their development. Pregnant women who suffer lead poisoning can also pass the lead onto their unborn babies.

For practical tips on reducing lead exposure in the home please see here: http://www.health.nsw.gov.au/environment/factsheets/Pages/lead-exposure-children.aspx

Asbestos

A wide range of building and construction products contained asbestos up until 1987, including cement sheeting (fibro), drainage pipes, roofing, guttering and building boards, etc. Breathing in asbestos can cause lung disease and cancer, but people who get these health problems have usually been exposed to asbestos for a long time through their work. Asbestos in good condition (NOT chipped, cracked or flaking) will not be a hazard.

For practical tips on reducing your exposure to asbestos in the home please see here: http://www.health.nsw.gov.au/environment/factsheets/Pages/asbestos-and-health-risks.aspx

Other hazards

Treated timber is wood coated with chemicals to prevent decay from dampness or insects. While the chemicals used to treat the timber are toxic, they pose little risk to human health unless activity such as sawing or burning the timber are carried out, where people can be exposed to high quantities of dust and fumes. Volatile compounds are chemicals that can be released from some fabrics, carpets, plastic products, paints and cleaning products, etc. They might cause skin, eye or throat irritation among other symptoms. When using these products, ensure good ventilation, follow the label instructions



carefully and try not to keep any unwanted or left-over chemicals in your home. If you do need to keep any chemicals, store them safely out of reach of children.

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Contacts and useful websites

Tenants' Advice and Advocacy Services

Inner Sydney 02 9698 5975

Eastern Area 02 9386 9147

Inner West 02 9559 2899

Northern Area 02 8198 8650

Southern Sydney 02 9787 4679

South West 1800 631 993

Western Sydney 02 8833 0933

See full list at www.tenants.org.au

Aboriginal Tenants' Services

Greater Sydney Aboriginal Tenants Service 02 9833 3314

Northern NSW Aboriginal Service 1800 248 913

Southern NSW (Murra Mia) Aboriginal Tenants Service 1800 672 185

Western Aboriginal Tenants Service 1800 810 233

Community Legal Centres

Redfern Legal Centre 02 9698 7277

Inner City Legal Centre 1800 244 481

Marrickville Legal Centre 02 9559 2899

Kingsford Legal Centre 02 9385 9566

South West Legal Centre 02 9601 7777

Western Sydney Legal Centre 02 8833 0911

See full list at www.clcnsw.org.au

Other contacts

NSW Civil and Administrative Tribunal 1300 006 228

www.ncat.nsw.gov.au

Australian Human Rights Commission 02 9284 9888

https://www.humanrights.gov.au

Anti-Discrimination Board of NSW 02 9268 5544

http://www.antidiscrimination.justice.nsw.gov.au

NSW Ombudsman 02 9286 1000

https://www.ombo.nsw.gov.au

People with Disability Australia 02 9370 3100 or 1800 422 015

http://www.pwd.org.au

FACS Housing 1800 422 322 (Housing Contact Centre)

www.housing.nsw.gov.au

FACS Housing local offices

https://www.facs.nsw.gov.au/about/contact/housing

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Your notes

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