



## Making a complaint about construction occupations or development and lease matters

This fact sheet outlines what ACTPLA can do in response to complaints about licenced construction occupations, breaches of development laws and breaches of lease obligations. It also lists other agencies and the issues they may be able to resolve.

ACTPLA is responsible for investigating complaints about breaches of the *Planning and Development Act 2007*, *Construction Occupations (Licensing) Act 2004* and associated operational acts including the *Building Act 2004*. ACTPLA's powers to take action are limited to these acts.

To help us resolve your issues under these acts, please read this fact sheet. If you decide to make a complaint, please complete all sections and provide as much relevant information as possible.

### Construction complaints

The *Construction Occupations (Licensing) Act 2004* (COLA) is the principal legislation that governs the responsibilities of construction occupations licensees including builders, plumbers, electricians and building certifiers.

If you identify an issue with the work of a licensee, it is recommended that in the first instance you seek to resolve the issue directly with them. If you have a written contract with the company or person who did the work, you should exercise your contractual rights. Should there be no resolution between the parties you can submit a complaint to the Construction Occupations Registrar (Registrar) as outlined below.

If you wish to make a complaint about a registered licensee, a former licensee or a person undertaking work without a licence you must complete the Controlled Activity/ COLA complaint form. You should also provide any additional information that is relevant to the alleged breach. For example, if the breach is in relation to the structural integrity of a part of a building, you should provide a report from a qualified structural engineer outlining the specific issues and relevant breaches.

### Examples of complaints

Examples of complaints that can be investigated by the Registrar include:

- an unlicensed person undertaking work that requires a licence
- pretending to be licensed
- undertaking building work that requires approval without approval
- failing to comply with the Building Code of Australia, as required and
- unacceptable standard of building work.



Some examples of issues the Registrar will not investigate include:

- contractual disputes — the Registrar will not take sides in contractual disputes
- fit and finish issues — building laws do not cover painting, cleaning and other fit and finish issues.

### Development and lease complaints

*The Planning and Development Act 2007* (PDA) is the principal legislation regulating development and non compliance with Crown lease provisions.

Complaints made under the PDA are often about actions being undertaken by adjoining neighbours. ACTPLA recommends that in the first instance you try to resolve the issue directly with your neighbour. If the issue can't be resolved and you wish to make a complaint, you must complete the Controlled Activity/COLA complaint form.

### Examples of complaints

Schedule two of the PDA lists those items that could be considered a breach and which ACTPLA may take action on. Examples of breaches of the PDA include:

- failing to comply with a lease provision
- undertaking unlawful development
- undertaking development that doesn't comply with a development approval and
- failing to keep a leasehold clean.

ACTPLA will only take action against a lessee for failing to keep their leasehold clean, when more than 30% of the undeveloped portions of the block that is clearly visible from the public domain are covered in items. Long grass and overgrown foliage does not constitute an unclean leasehold.

### What happens next

ACTPLA prioritises complaints by number and severity, so it can direct resources to the matters of the highest risk to the community.

Complaints with a risk to public safety are treated as priority one and are inspected within 24 hours of receiving a complaint. Complaints about a serious breach but not a safety risk are treated as priority two and are inspected within 24 to 48 hours of receiving the complaint. All other complaints are priority three and are investigated as resources allow, taking into consideration changing numbers of priority one jobs.

You will be provided with an update in writing on the progress of the Investigation within 30 working days from the receipt of your complaint. You will also be informed on significant milestones and finalisation of the complaint, however specific details and actions of ACTPLA's investigation will not be disclosed to you. This is a legal requirement under the *Privacy Act 1988* to protect private information of individuals involved and to avoid prejudice of potential litigation.



Resolving matters may take a significant time depending on the breach and cooperation of the parties involved. If a person fails to comply with ACTPLA's requests and formal enforcement action, they may be involved in litigation before the ACT Supreme Court.

**How to submit a complaint**

Complete the Controlled Activity/COLA complaint form and send it to ACTPLA's investigation unit, GPO Box 1908, Canberra ACT 2601. You can contact the investigation unit at [actplalru@act.gov.au](mailto:actplalru@act.gov.au) or on 6207 3022.

**What ACTPLA does not act on**

ACTPLA may decide not to proceed with an investigation if it determines a complaint is vexatious; that is, if there is a long-standing dispute between neighbours or parties.

Some examples of complaints which neither ACTPLA nor the Construction Occupations Registrar has the power to deal with are identified below, with contact details of the agencies that may be able to help.

<p><u>Streets, public places and nature strips</u></p> <ul style="list-style-type: none"> <li>• Littering</li> <li>• Inappropriate use of or damage to public land</li> <li>• Storage of Items on nature strips</li> </ul> <p>City Rangers may be able to assist on 6207 7132 or <a href="http://www.tams.act.gov.au/live/city_rangers">http://www.tams.act.gov.au/live/city_rangers</a></p>	<p><u>Contractual issues</u></p> <ul style="list-style-type: none"> <li>• Payments</li> <li>• Service levels</li> <li>• Contract Inclusions</li> <li>• Building finishes e.g. painting</li> </ul> <p>(unless fundamentally non-compliant with the <i>Building Act 2004</i>)</p> <p>Fair Trading may be able to assist on 6207 0400 or <a href="http://www.ors.act.gov.au/FairTrading/index.html">http://www.ors.act.gov.au/FairTrading/index.html</a></p>
<p><u>Dangerous substances</u></p> <ul style="list-style-type: none"> <li>• Exposure to asbestos</li> <li>• Removal of asbestos (in the first instance)</li> <li>• Exposures to other hazardous substances</li> </ul> <p>Worksafe ACT may be able to assist on 6207 3000 or <a href="http://www.ors.act.gov.au/WorkCover/index.html">http://www.ors.act.gov.au/WorkCover/index.html</a></p>	<p><u>Environmental issues</u></p> <ul style="list-style-type: none"> <li>• Noise</li> <li>• Pollution</li> <li>• Tree damaging activities</li> </ul> <p>Environment Protection may be able to assist on 13 22 81 or <a href="http://www.tams.act.gov.au/live/environment">http://www.tams.act.gov.au/live/environment</a></p>
<p><u>Health issues</u></p> <ul style="list-style-type: none"> <li>• Rotting garbage</li> <li>• Harbour for vermin</li> <li>• Stagnant water</li> </ul> <p>Health Protection Service may be able to assist on 6205 1700 or <a href="http://www.health.act.gov.au/c/health">http://www.health.act.gov.au/c/health</a></p>	<p><u>Fire hazards</u></p> <ul style="list-style-type: none"> <li>• Long grass</li> <li>• Overgrown vegetation</li> <li>• Flammable substances</li> </ul> <p>ACT Fire Brigade may be able to assist on 6207 8363 or <a href="http://www.firebrigade.act.gov.au">http://www.firebrigade.act.gov.au</a></p>
<p><u>Neighbourhood disputes</u></p> <p>The Conflict Resolution Services may be able to assist on 6162 4050 or <a href="http://www.crs.org.au/">http://www.crs.org.au/</a></p>	<p><u>Heritage issues</u></p> <ul style="list-style-type: none"> <li>• Damage to a heritage listed property</li> </ul> <p>ACT Heritage may be able to assist on 13 22 81 or <a href="http://www.cmd.act.gov.au/heritage">http://www.cmd.act.gov.au/heritage</a></p>