



HANDY HINT

Have you made every attempt to resolve the dispute with the other party? Would it help to have the owners corporation discuss the problem at a meeting?



COST

The Act sets a fee for each application for mediation, Adjudicator or Tribunal orders.



DEFINITION

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

Strata living often brings people of diverse interests and backgrounds close together. Disagreements and disputes sometimes arise. Tolerance, understanding of others and communication are essential to harmonious living. The *Strata Schemes Management Act 1996* sets out a process for resolving disputes. This includes mediation and formal orders by the Strata Schemes Adjudicator and/or the Consumer Trader and Tenancy Tribunal. This process is illustrated below.

Step 1. Talk about it

Sometimes people in dispute have not even spoken to each other about the problem. This makes it very hard for people to continue living together happily.

Step 2. Mediation

The Office of Fair Trading provides a mediation service through the Mediation Services Unit. Other mediation services can also be used. Many disputes can be resolved through mediation.

The mediator's role is to:

- help identify the issues in dispute
- assist the parties to raise and consider options and strategies by which the issues may be addressed
- assist the parties to discuss the issues and options with a view to negotiating a settlement they can all live with.

Step 3. Notice to comply with a by-law

Where the owners corporation is satisfied an owner/occupier has breached a by-law it can issue a Notice requiring that person to comply with the by-laws. If it is not complied with the owners corporation may, within 12 months of serving the Notice, ask

the Consumer Trader and Tenancy Tribunal to impose a penalty of up to \$550.

Step 4. Orders by an Adjudicator

Before you can take the matter to an Adjudicator, you must try mediation. Here are some examples of disputes the Adjudicator can rule on if other attempts at resolution fail:

- repairs to ceilings, walls and bathrooms
- water penetration through windows and shower floors
- parking on common property without approval
- keeping pets without approval
- alterations to common property (eg. closing in balconies)
- use of air conditioners
- insufficient floor coverings
- noisy residents
- appointment of a managing agent
- invalidation of meetings
- variation of insurance.

How is an Adjudicator's decision made?

Applications to an Adjudicator are dealt with in the office and the people in dispute do not have to appear before anyone. The Adjudicator looks at the application and all submissions, as well as decisions made in similar cases. The decision, and the reasons for that decision, are made in writing.

Notice of the order is sent out to the people involved (the person who applied, the person it is against, anyone who sent in a submission and the owners corporation). An Adjudicator's order can take between 6 to 10 weeks after an application is lodged.



IMPORTANT

When your application for adjudication is received, a letter is sent to interested parties asking for submissions (the views of anyone involved).




QUICK TIP

You don't need a solicitor for hearings before the Tribunal. You can represent yourself.



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 13 32 20
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What do you do if you're unhappy about an Adjudicator's decision?

You can appeal to the Consumer Trader and Tenancy Tribunal but you must do this quickly (within 21 days of the order coming into effect). In some cases it may be possible to extend the time to make an appeal to 90 days but you must have good reasons. If the Adjudicator dismissed your application, the appeal must be made within 21 days.

Step 5. A hearing before the Consumer Trader and Tenancy Tribunal

Here are some examples of disputes that the Tribunal can rule on:

- appeals against Adjudicator's decision
- change unit entitlements
- authorisation of certain acts in the initial period to preserve the facilities of the scheme in the early stages of a development.

How is a Consumer Trader and Tenancy Tribunal case different from an Adjudicator's case?

The preliminary process is the same (ie. filling in the application, paying the fee, sending in submissions) but this time there is an open hearing before the Tribunal. The hearing is similar to a Local Court although it is not quite as formal. There is one Tribunal for NSW which has regular hearings in Sydney and in other metropolitan and country locations.

When will the Tribunal make its decision?

Usually a decision is made by the Tribunal after everyone has finished giving their evidence. Sometimes the Tribunal might want more time to think about it and will give a reserved decision later. A notice of the order is sent out after the Tribunal makes its decision.

Can you appeal a decision by the Tribunal?

Yes, but only to the Supreme Court. You should get legal advice about this.

What is Renting and Strata Services?

We're a part of the Office of Fair Trading. We provide information to all people connected with the management of strata schemes in NSW under the *Strata Schemes Management Act 1996* and the mediation of disputes and applications for orders by the Adjudicator and the Tribunal.

How do you apply?

Call us for an application form, download from our web site www.fairtrading.nsw.gov.au or pick one up from any Fair Trading Centre or drop in to our office at Level 4, 234 Sussex Street, Sydney.

After carefully reading the guide notes, complete the form and send it to the Registrar with your application fee.

Where to get more information

Fair Trading Centres

Tel. 13 32 20

Renting and Strata Services

Level 4, 234 Sussex Street
Sydney NSW 2000
8.30am – 5.00pm Monday to Friday
Tel. 9338 7900
Outside Sydney 1800 451 431
Fax. 9338 7999

TTY Tel. 9377 9099

Telephone service for hearing impaired

Language Assistance Tel. 13 14 50

Ask for an interpreter in your language

www.fairtrading.nsw.gov.au

This fact sheet must not be relied on as legal advice. For more information about this topic, please refer to the appropriate legislation.