



Problem with Neighbours

A guide to resolving disputes with neighbours

Health Services Information Package

INTRODUCTION

Disputes between neighbours have been around as long as there have been adjoining property owners, however most are resolved successfully.

Most disputes start with a small difference of opinion, misunderstanding or lack of communication. It is also true that minor disputes can spiral out of control and escalate into long running disputes on numerous issues.

At this point it can become extremely stressful and upsetting for both parties. The key to preventing this is communicating before the matter escalates into a serious matter. Communicating in a friendly and reasonable manner with your neighbour will go a long way in resolving most disputes and assist you to continue to stay on good terms.

It is normal to expect that some activities will create a bit of noise, dust, smoke, odours, and so on. However residents should ensure that when engaging in these activities, the effects from these activities remain within reasonable limits and do not overly impact the neighbourhood.

The City of Swan is often requested to intervene at a point when extreme feelings have developed on at least one side and this makes it difficult to provide an outcome to the satisfaction of both neighbours.

This guide may assist you to resolve a dispute with your neighbour before it escalates. It also provides information on how to proceed with a complaint, should resolution in the first instance prove unachievable.

SO, WHAT SHOULD YOU DO?

In general, you have four options listed below in order of recommended priority. It is strongly recommended to attempt options one and two first, (speaking to your neighbour and/or mediation). They provide the chance to resolve the dispute in a non-threatening and 'neighbourly' manner which will hopefully lead to a long running and better understanding between neighbours.

Options three and four (formal complaint or Civil Legal action) involve actions that may lead to some long term bad feeling on the part of at least one neighbour. However with serious matters or if other options have failed, it may well be your only option.

OPTION ONE – Talk to Your Neighbour

You should attempt to resolve any dispute with a neighbour by talking and trying to reach a satisfactory solution. After all you may be living alongside each other for years to come and it is in both your interests to be on reasonable terms. The ten tips below provide some useful advice on raising issues and communicating with your neighbour.

If your neighbour is unapproachable or denies a problem exists however, mediation may be the next best option and is discussed in Option two.

Ten tips for discussing a problem with your neighbour

1. Deal directly with the person you are in dispute with. This is usually far better than letters, messages, shouting, banging on walls, throwing things, or talking to everyone else except "that person".
2. Plan a convenient, sensible time and place to talk to the other person. Bad timing can increase and escalate the dispute rather than diminish the tension.
3. Think beforehand about what you want to say. It is important to be clear about what you think the problem is and how you feel about the dispute.
4. Don't be too quick to lay the blame on the other person. Finger pointing and insulting behaviour will cloud the issue and make it harder for the other side to actually take in what you are saying.

"Don't interpret your neighbour's behaviour"

5. Don't interpret your neighbour's behaviour. "You park outside our entrance deliberately to wind us up" sounds much worse than "parking outside our entrance causes a lot of inconvenience".
6. Do give your neighbour a chance to say their side of the story. Let them know you are listening to what they are saying even if you disagree with what they are saying.
7. Let them know that you are pleased that you can get together to discuss the problem. This can help you both to feel positive and bring you closer to an agreement.
8. Work on the problems co-operatively. See what you can both do to resolve the dispute. Two people working towards a mutual agreement can get a lot further than one person dictating to the other on how they should change or improve their behaviour.
9. Bring all the issues out into the open. Take the time to work on all the issues involved. Make sure that the difficult ones don't get swept under the carpet.
10. Look ahead. Agree to meet each other at specific future dates to check on how things are going.

If either of you still end up getting angry or stuck or upset, consider mediation.

OPTION TWO - Mediation Services

Mediation is a way of solving problems where people are helped to settle their own disputes or differences themselves with the involvement of a third party, rather than handing over their decision making power to someone else.

Mediation is an approach which is gentle on the people involved whilst being tough on the problem.

Trained mediators (neutral third parties) sit down with those in conflict and help them work out an agreement that is acceptable to everyone. Mediation is used in all types of disputes between neighbours such as disagreements over fences, noise, trees, and pets for example and has a high success rate (85% according to the Citizens Advice Bureau).

The process starts when a neighbour contacts the organisation below who will discuss your problem and advise on the suitability of mediation or other options to resolve your problem. Other services can also be provided including legal advice or advice on counselling services if a dispute is becoming upsetting or stressful.

The City of Swan subsidises the service at the Citizens Advice Bureau for residents, but a token fee is requested from the customer.

These services use trained mediators to settle disputes in an unbiased manner without the need for costly legal proceedings. A local venue can be arranged for the proceedings and the service is available after hours.

Mediation Services: Citizens Advice Bureau
Level 1,
25 Barrack Street
Perth WA 6000
Telephone (08) 9221 5711

OPTION 3- Formal Complaint to the City

Taking disputes with neighbours to court can be expensive and the outcome may leave you bitter and hostile to each other. In your own interest, it is recommended that before you consider a legal solution to your problem, including referring to the City, you should talk the matter over with your neighbour first.

If these methods do not solve the problem, you can request the assistance of the City by completing a "Health Services General Investigation Request Form" or "Health Services Noise Investigation Request Form" and returning it to the City of Swan. You should find these available on the City's website at www.swan.wa.gov.au. Please contact the City on 9267 9267 if you do not have a copy of these forms.

It is important that you completely fill out all sections of the form, making sure that it is signed and dated.

Upon the return of the form the matter will be investigated by an officer from the City of Swan. The officer will investigate whether there are any regulations or local laws applying to your situation and take the appropriate action once the matter is investigated. This may or may not involve legal action depending on circumstances, evidence and public health significance. Please note the City can only take action where legislation permits it to do so.

Although every effort will be made to investigate your concern as soon as possible, please be aware that health and safety issues need to be responded to in order of priority and based on the risk to public health. Regardless, we will endeavour to notify you of our progress within seven days of receipt of the attached form. If you are particularly distressed by the actions of your neighbour or believe there is an immediate risk to your health, please do not hesitate to contact the City for further advice.

The City always attempts to ensure confidentiality when requests are made for intervention concerning a neighbour or third party. In some cases however, the nature of the complaint may mean that the source of the complaint is apparent to the alleged offender. For instance, where noise complaints are received, measurements will often need to be taken from the property of the affected person. In those circumstances it may not be possible to maintain confidentiality.

Should you require any further information or a progress report on your request, please contact the City on 9267 9267.

OPTION 4 – Civil / Legal Action

For some issues the City is not the responsible agency and the matter is not within its jurisdiction. That is there are no laws governing the situation for it to enforce. In these circumstances or if you have an intractable or very serious matter, then legal action may be your only remaining option. Be aware that taking disputes to court can be an expensive exercise and the end result may be bitterness and hostility between neighbours.

Legal advice should always be sought first and can be provided by the Citizens Advice Bureau or other agencies including for matters such as dividing fences, trees, noise, animals etc.

A solicitor can:

- Advise you of your rights in a dispute with neighbours. Once the legal questions are answered, you and your neighbour may be able to see your problem in a different light.
- Advise you of the courses of action available to you in a particular dispute.
- Assist you with writing letters or completing forms that may be required when approaching government agencies.

It should be mentioned however, that taking legal action should be a last resort as it is not likely to provide a long term solution to all your concerns. However, you have fundamental rights under law and it is an option that can be considered.

CONTACT DETAILS

Citizens Advice Bureau
Level 1, 25 Barrack Street
Perth WA 6000

Telephone: 9221 5711

www.cabwa.com.au

Legal Aid WA
32 St Georges Tce
Perth WA 6000

Telephone: 1300 650 579

www.legalaid.wa.gov.au