



# Neighbours, the law and you

Your guide to  
neighbourhood  
laws in Victoria

# Your guide to neighbourhood laws in Victoria

This guide gives information on how to be a good neighbour, and explains your rights and responsibilities in relation to common issues that arise between neighbours, such as animals, noise, fences and trees.

This is one in a series of guides on local laws published by the Victoria Law Foundation. Other titles are:

- *Dogs, cats, neighbours and you*
- *Parking, the law and you*

To download these free publications or order a copy, visit our website.

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www.victorialawfoundation.org.au

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# Being a neighbour

It is important to know your legal responsibilities in order to avoid problems with your neighbours.

## Neighbourhood issues – the basics

We all have the right to use and enjoy our property as we please as long as we follow the law and respect other people's property. This applies to tenants as well as property owners.

Living as a neighbour means that there will be times when what you do on your property will affect your neighbour, just as what your neighbour does can affect you.

Constructively working out any problems together with your neighbour is the best way to maintain a good relationship with them so you can deal with any future issues.

Whatever the problem, in most cases your best option is to try to resolve it by talking with your neighbour and sorting it out in a friendly and informal way. This approach is most likely to result in the best solution for you both.

The Reaching Agreement website ([www.reachingagreement.disputes.vic.gov.au](http://www.reachingagreement.disputes.vic.gov.au)), run by the Victorian government, provides useful advice and resources.

For hints on  
how to resolve  
disputes, go to  
p. 24



# Common neighbourhood problems

This section covers common neighbourhood problems, the legal responsibilities involved and how you can resolve neighbourhood disputes.

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## Animals

Owners of pets and other animals are responsible for ensuring that they do not cause problems for their neighbours. For example, if you own a dog or cat you must make sure that they:

- do not wander onto other people's property without permission, and
- do not make excessive noise or otherwise cause an unreasonable annoyance to your neighbours.

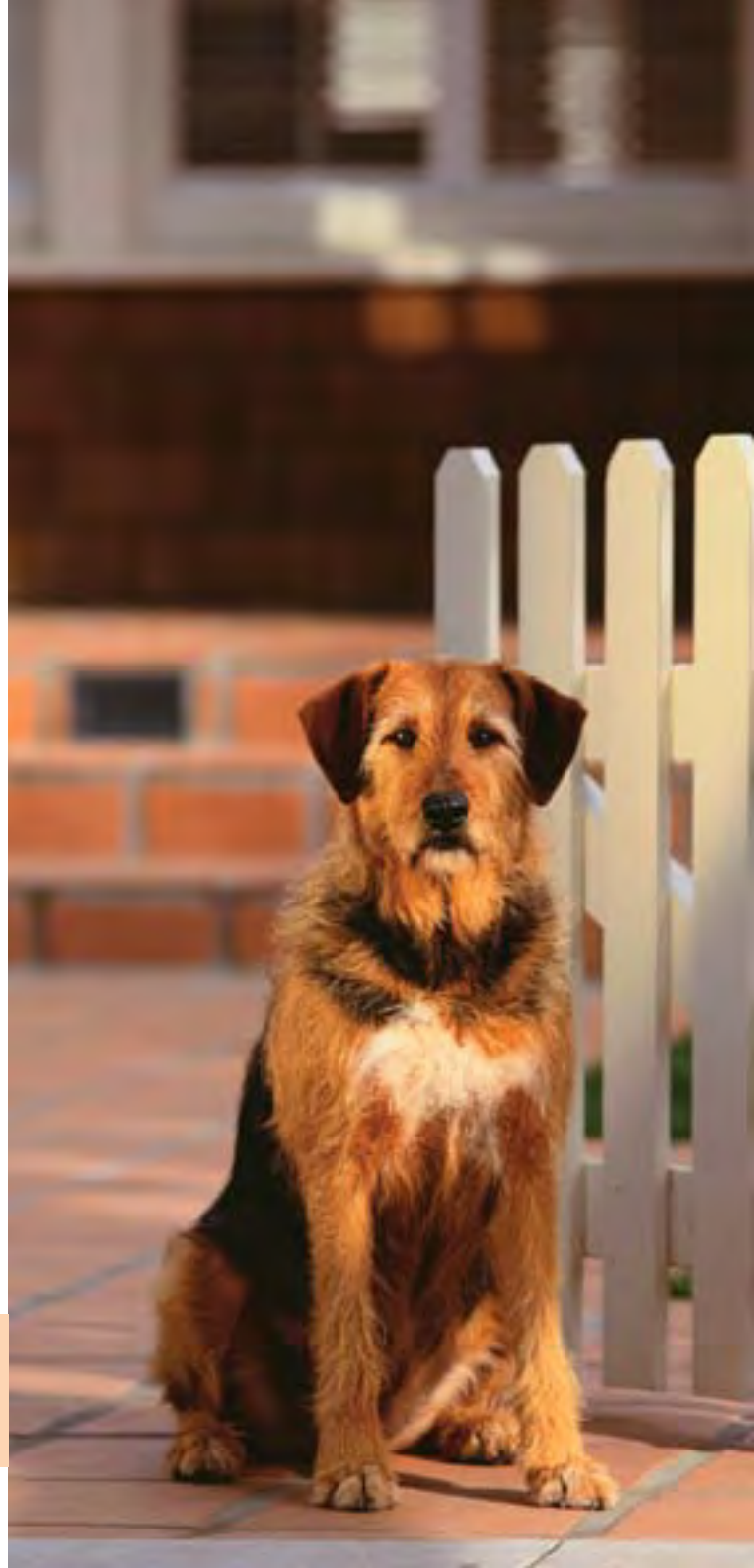
### **Who is responsible for enforcing laws about pets?**

Local councils are largely responsible for making and enforcing laws relating to pets. If you have a problem or a question relating to a neighbour's animals, or your own, check with your council to find out which laws apply in your local area.

Councils can make laws in relation to a range of animals, including dogs, cats and birds. The types of laws that councils can make include:

- how many animals you can keep
- where pets can be located and are allowed to go
- curfews and time restrictions for dogs and cats
- the management of animal droppings.

More detailed information relating to dogs and cats can be found in the Victoria Law Foundation companion guide *Dogs, cats, neighbours and you*, available at [www.victorialawfoundation.org.au](http://www.victorialawfoundation.org.au)







## **Animals in rural areas**

As an animal owner and landholder in rural Victoria, there are a number of prohibitions and responsibilities you need to know about:

### **Wandering livestock**

You must not allow any livestock to wander off your property. They can injure themselves and other animals, cause vehicle accidents and damage property. You can be liable for any harm your wandering animal has caused. Also, in some circumstances an authorised council officer can impound wandering livestock.

### **Pests and prohibited animals**

You are responsible for controlling animal pests like foxes and rabbits, and you are not allowed to keep prohibited animals. See the Victorian Department of Environment and Primary Industries' website ([www.dpi.vic.gov.au/agriculture](http://www.dpi.vic.gov.au/agriculture)) for information about which animals are prohibited.

### **Disposal of carcasses**

You must properly dispose of animal carcasses, including the carcasses of animals that have died during bushfires, floods or droughts.

For more information about these issues, see the relevant fact sheets on the Department of Environment and Primary Industries' website: [www.dpi.vic.gov.au/agriculture](http://www.dpi.vic.gov.au/agriculture)

## **Common laws relating to dogs and cats**

It is important to know about your legal obligations regarding the registration of dogs and cats, where they can go and how they can behave, as well as your responsibilities if they harm people or their property.

### **Registration**

Dogs and cats must be registered each year with the local council and must wear identification tags.

### **Wandering dogs and cats**

If a dog or cat wanders onto your property without permission on more than one occasion, it can be seized by you or an authorised council officer. But you should always try to talk to the owner of the dog or cat and discuss your concerns with them to give the owner a chance to fix the problem.

### **Barking and other forms of nuisance**

If a neighbour's dog or cat causes a nuisance, you may be able to complain about it to your council. Nuisance can include excessive noise, or a dog or cat that injures, or endangers the health of, a person. Noise, such as barking, is only considered a nuisance if it is loud and persistent or occurs at unreasonable times.

### **Resolving problems with animals**

If a neighbour's dog, cat or other animal is causing you problems, the best thing to do is talk to your neighbour about it. They may not realise what is happening and may be able to take steps to fix the problem easily. If you still can't resolve your issue then speak to your local council and ask them for assistance.

### **Making a formal complaint**

You can make a formal complaint to your local council if a neighbour's animal is causing you problems. Generally, in order to make a complaint about a dog's or a cat's behaviour it must be unreasonable and persistent. If the animal's behaviour is against the law, your council will be able to take action to resolve the issue.

### **Want more information?**

Visit your local council's website for useful information about keeping pets and other animals.

## Noise

Noise is a normal part of living in urban and regional areas but it can cause conflict between neighbours. As a neighbour it is important to know that if the noise is excessive or occurs at unusual hours it might be illegal. Where you live and the zoning of your property will make a difference to the laws that apply to you in relation to noise. If you live near a commercial zone or in a rural area, some noise from factory machinery or farm equipment will be unavoidable. In other areas, the basic rule is that neighbours must not interfere with each other's health and wellbeing or make unreasonable noise.

The table on page 13 outlines the times when certain types of residential noise are not allowed; during these times, these types of noise will automatically be considered unreasonable and prohibited. Different guidelines apply to commercial noise.

It is important to note that even if certain types of noise are allowed under the table on page 13 they may still be considered unreasonable because of the time, place or circumstances in which the noise is being made or because of its volume, intensity or duration.



## Resolving problems with noise

If your neighbour is making noise and it is not allowed under the restrictions on page 13 then the best thing to do is to raise the issue with your neighbour first and try to resolve it, but this may not always be possible.

## Making a formal complaint

The organisation that you contact to make a complaint will depend on the type of noise and its source.

## Residential noise

Residential noise comes from many different sources, including loud parties, home renovations and music. You can complain to your local council about unreasonable noise and noise that is interfering with your health and wellbeing (known as nuisance noise).

If the problem is urgent, such as a loud party in the early morning hours or where your neighbours are being aggressive as well as noisy, you can call the police for assistance. Both local council officers and police officers can direct people to stop making unreasonable noise. These directions can stay in force for up to 72 hours. If someone does not comply with a council or police direction about noise, they can be given an on-the-spot fine for breaking the law.

For more information about residential noise, see the Environment Protection Authority (EPA) publication *Annoyed by noise?* available from its website: [www.epa.vic.gov.au/your-environment/noise/noise-publications](http://www.epa.vic.gov.au/your-environment/noise/noise-publications)

You can also contact your local council or visit their website.

**For hints on  
how to resolve  
disputes, go to  
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**Commercial noise, including noise from entertainment venues**

Indoor venue – When the disturbing noise is coming from an indoor venue, such as a pub, restaurant or nightclub, you can make a complaint to either your local council or the police. The police have the power to require a venue to reduce the noise between midnight and 8 am.

Large outdoor music event – If you are being affected by noise from a large outdoor music event, you can report it to the Environment Protection Authority (EPA), which enforces the noise limits for these functions. See the EPA’s website ([www.epa.vic.gov.au](http://www.epa.vic.gov.au)) for more information.

*Industry*

For noise coming from industries, you can make a complaint to the EPA. The EPA has the power to investigate these kinds of complaints and enforce noise limits against industries. You can make a complaint about this kind of noise by using the EPA Pollution Hotline: 1300 372 842.

*Shops or small commercial premises*

If you have a problem with noise coming from shops or other small commercial premises near where you live, you should make a complaint to your local council.

**Want more information?**

Go to the Victorian Environment Protection Authority’s website ([www.epa.vic.gov.au](http://www.epa.vic.gov.au)) where you can also download useful publications about noise ([www.epa.vic.gov.au/your-environment/noise/noise-publications](http://www.epa.vic.gov.au/your-environment/noise/noise-publications)).

**Residential noise restrictions**

Items	When you cannot use them	
A <b>motor vehicle</b> (except when moving in or out of your home), lawn mower or other equipment with an internal combustion engine	Monday to Friday: 8 pm–7 am  Weekends and public holidays: 8 pm–9 am	
An electric <b>power tool</b> , chainsaw, circular saw, gas compressor, pneumatic power tool or hammer, or similar impacting or grinding equipment	Monday to Friday: 8 pm–7 am  Weekends and public holidays: 8 pm–9 am	
A domestic <b>air conditioner</b> or evaporative cooler, heat pumps and other similar pumps, domestic heating equipment and a domestic vacuum cleaner	Monday to Friday: 10 pm–7 am  Weekends and public holidays: 10 pm–9 am	
A <b>musical instrument</b> and any amplified sound system, including a stereo, radio, television and public address system	Monday to Thursday: 10 pm–7 am  Friday: before 7 am and after 11 pm  Saturday and public holidays: before 9 am and after 11 pm  Sunday: before 9 am and after 10 pm	
Any <b>electric equipment or appliance</b> not listed above, including gardening equipment	Monday to Friday: 8 pm–7 am  Weekends and public holidays: 8 pm–9 am	

## Fences

Under the law, both you and your neighbour are responsible for the maintenance of a standard fence dividing your residential properties, and for the building of a new one.

Neighbours are expected to come to an agreement regarding the building and maintenance of fences, and about who pays what proportion of the cost.

### Who is responsible for the cost of a fence?

The law says that neighbours are jointly responsible for the building and maintaining of a fence dividing their properties. Generally, each neighbour must pay half the cost of the construction or repair of a standard fence. But there are exceptions, as the table on page 17 shows.

### Reaching agreements about building and repairing fences

If you want to build a new fence or repair an old one – and you want a financial contribution from your neighbour – you should try to reach agreement with them about issues such as the type of fence, its location, the estimated cost and who will pay what.

Where possible, you should give your neighbour time to think about these issues and the opportunity to plan for the cost of building or repairing a fence.

### Getting a quote

As part of trying to come to an agreement with your neighbour, it is useful to get a written quote from a fencing contractor regarding the cost of building or repairing the fence. If your neighbour agrees to the quote, to avoid later disputes you should both sign a copy of the quote and write on it the amount each of you has agreed to pay. If your neighbour thinks the cost is too high, you should get another quote.

### Resolving problems with fences

Sometimes it may not be possible to come to agreement with your neighbour about fencing issues and you may need to take further action.



### What if my neighbour does not agree to build a new fence?

If you and your neighbour cannot agree on the construction of a new fence for which you are both responsible, you may give your neighbour a Notice to Fence setting out:

- the location of the fence
- the type of the fence
- the share of the cost each of you will pay.

There is no form you need to use to give your neighbour a Notice to Fence; a letter including the necessary details is enough.

If after a month of giving your neighbour a Notice to Fence, you are still unable to agree on the construction of the fence, or on the kind of fence and how much of the cost each of you will pay, you or your neighbour can take action in the Magistrates' Court to resolve the dispute. But this can be expensive and time consuming and should usually be a last resort.



**What if my neighbour does not agree to maintain or repair a fence?**

In the case of maintaining or repairing a fence, you can give your neighbour a notice setting out:

- which part of the fence is to be repaired
- what repairs are to be done
- the estimated cost of the repairs.

If you receive a notice to repair and you think the repairs are too expensive, you should immediately discuss it with your neighbour and get another quote. If that does not resolve the problem, you can go to the Magistrates' Court to resolve the dispute. The court will then decide how much you have to pay for the repairs.

**Want more information?**

The Victorian Parliament's *Fencing Quick Guide* provides a summary of fencing law. Visit [www.parliament.vic.gov.au/lawreform/inquiries/article/1659](http://www.parliament.vic.gov.au/lawreform/inquiries/article/1659)

Fitzroy Legal Service's online *Law Handbook* discusses fencing law. Visit [www.lawhandbook.org.au](http://www.lawhandbook.org.au)

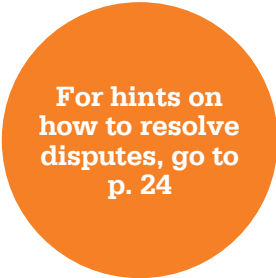
The industry website Fencing Online provides useful information, especially on fencing contractors and notices to fence. Visit [www.fencingonline.com.au](http://www.fencingonline.com.au)

A 'Fencing Disputes Information Sheet' and the form for fence-dispute complaints are available from the Magistrates' Court website: [www.magistratescourt.vic.gov.au](http://www.magistratescourt.vic.gov.au)

Note that the Victorian government is considering reforming fencing law in Victoria. Visit [www.justice.vic.gov.au](http://www.justice.vic.gov.au) for more information.

**Who pays for building and repairing fences: exceptions to the general rule**

The situation	Who pays what	\$\$
You want a more expensive fence built	You should pay the extra amount	
You are a tenant with a lease that has less than three years to run on it	Your landlord should pay your half share of the cost	
You are a tenant with a lease that has three or more years to run on it	You will have to contribute to the cost of the fence	
Your property borders land owned by the federal or state government	You will generally be responsible for the full cost of the fence	
The fence will divide farming and residential properties	Farmers only have to pay half the cost of a fence that suits their needs (usually an agricultural fence)	
You have damaged a fence intentionally or by being negligent	You must pay the entire cost of repairing or replacing the fence	
A fence has been accidentally damaged or has deteriorated naturally	Both neighbours share the cost of repairing or replacing the fence	
You make urgent repairs to a fence	You can generally get back some of the cost of the repairs from your neighbour	
You have built a fence without consulting your neighbour	You must pay the entire cost of the fence	



## Trees

Most disputes about trees involve overhanging branches or roots reaching onto a neighbour's property. These can cause damage to property and injury to people.

You and your neighbour's rights concerning trees will depend on the planning schemes and local laws relating to trees in your area. Councils have local laws and planning schemes that cover issues such as:

- trees overhanging the footpath – generally only allowed over a certain height as specified by the council
- tree protection schemes – some councils specify that certain significant trees or trees over a certain size cannot be cut without permission
- nature-strip and parkland trees – generally, residents are not permitted to prune these trees.

In some areas, a council permit is required to prune overhanging branches or roots that are coming onto your land from a neighbour's property. Your local council will be able to tell you whether or not you need a permit.

If you do not need a permit, then you will usually be entitled to cut off branches and to dig up roots that are reaching onto your property. However, if you do want to prune any branches or dig up any roots of a neighbour's tree you:

- cannot enter your neighbour's property without permission
- must only prune or cut back the branches or roots that are on your property
- must not cause any unnecessary damage to the tree.



### Clearing vegetation in rural areas

If you believe that trees or vegetation on your neighbour's property are a bushfire risk, contact your Country Fire Authority Community Safety Officer or your council's Municipal Fire Prevention Officer. They can assess the risk and if necessary issue fire prevention notices requiring vegetation to be cleared. For more information, visit the Victorian Department of Planning and Community Development website: [www.dpcd.vic.gov.au](http://www.dpcd.vic.gov.au)



### Resolving issues with trees

If you and your neighbours are unable to come to agreement on how to manage trees on each of your properties, you may be able to make a formal complaint to your local council.

If your local council considers that your neighbour is breaking local laws regarding trees overhanging a footpath, protected trees, nature-strip trees or parkland trees, they can issue a notice requiring them to comply with relevant laws.

Local councils do not handle disputes about trees that are overhanging private property. These disputes must be resolved privately by you and your neighbour. The Dispute Settlement Centre of Victoria offers free help to resolve these kinds of disputes. Visit [www.disputes.vic.gov.au](http://www.disputes.vic.gov.au) for more information.

### Want more information?

Most local council websites contain useful information about planning schemes and local laws regarding trees.

Also see the Magistrates' Court of Victoria website: [www.magistratescourt.vic.gov.au](http://www.magistratescourt.vic.gov.au)

## Nuisance, including pollution

Apart from noise, there are many other kinds of pollution and nuisance that can interfere with a neighbour's health and wellbeing and the enjoyment of their property. These include:

- smoke from burning off
- bad odours from uncollected rubbish
- damaged drainage or water run-offs from a neighbour's property
- unhygienic enclosures for birds or other animals
- buildings or other structures that are in disrepair.

The type of activity and its impact will determine whether it is considered a public or private nuisance. This is important because it affects what steps you take to solve your problem. Under Victorian law, a public nuisance is a problem that endangers a person's health, is offensive or seriously disrupts a person's comfort. Public nuisances tend to relate to issues that have an impact on a larger number of people. For example, smoke from the burning of rubber products on a neighbouring property could amount to a public nuisance.

Private nuisances tend to affect an individual or a small group directly. They are substantial and persistent interferences with your property or your enjoyment of it. There will always be some level of interference wherever you live so only a limited number of situations will be considered a private nuisance. See Fitzroy Legal Service's online *Law Handbook*: [www.lawhandbook.org.au](http://www.lawhandbook.org.au)

### Resolving problems with nuisance

If you are affected by a nuisance and you are unable to resolve it yourself, then you may be able to make a formal complaint to your local council or take action yourself in court. You need to know whether your complaint falls within public or private nuisance as this will have an impact on the next steps you take.

### Public nuisance

If you are affected by what you think is a public nuisance, you can make a complaint to your local council. Local councils are required as far as reasonably possible to fix all public nuisances within their districts.

If the council does not take action within a reasonable time, you can take your own action in the Magistrates' Court at your own cost. Before taking any legal action, always seek legal advice.

### Private nuisance

If you are affected by what you consider to be a private nuisance you can take court action against your neighbour. But court action can be expensive and should be a last resort. Before taking court action you should get legal advice.

### Want more information?

The Magistrates' Court of Victoria operates in several metropolitan locations as well as throughout regional Victoria. The Court's website ([www.magistratescourt.vic.gov.au](http://www.magistratescourt.vic.gov.au)) contains information about going to court, as well as court locations and contact details, forms and fees.



### → Burn-offs on rural land

For information about burn-offs on private land during Fire Season and at other times, see 'Burning off regulations: your questions answered', available on the Victorian Department of Environment and Primary Industries' website: [www.dpi.vic.gov.au](http://www.dpi.vic.gov.au)

## Land use and buildings

Disputes between neighbours sometimes arise because of what a neighbour is doing on their land or what they are building on it. For example, your neighbour might be repairing a fibreglass boat in their backyard, giving off harmful fumes, or putting up a new shed that will block out the natural light in your kitchen.

To regulate land use, local councils sometimes require planning permits for residential or business developments. Business permits to run certain businesses are also sometimes required by councils or other organisations.

If your neighbour is using their residential property for business purposes, and it is causing a nuisance to you, you may want to check with your local council whether any permits apply to that activity.

### Want more information?

Local council websites contain useful information on planning and business permits and about local laws regarding land use and buildings.

Building Commission: [www.buildingcommission.com.au](http://www.buildingcommission.com.au)

Department of Planning and Community Development's Planning Schemes Online: [planningschemes.dpcd.vic.gov.au](http://planningschemes.dpcd.vic.gov.au)





# Resolving neighbourhood disputes

Talking to your neighbour can help you to resolve problems before they become too serious.

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## Hints on resolving neighbourhood disputes

### Talking with your neighbour

When talking with your neighbour, consider your neighbour's point of view and accommodate any differences, such as your background, working hours or stage of life. Always keep your conversations informal and friendly and focus on the problem you want to resolve.

### Making a formal complaint to your local council

If talking with your neighbour does not fix the problem, perhaps try mediation through the Dispute Settlement Centre of Victoria ([www.disputes.vic.gov.au](http://www.disputes.vic.gov.au)). If this still does not resolve your dispute, you could consider making a formal complaint to your local council. Your local council website provides useful information on how to make formal complaints about a range of neighbourhood issues and about how your council can respond to them.

### Seeking legal advice and taking legal action

If talking with your neighbour, mediation and council action have not resolved your neighbourhood dispute, you could consider getting legal advice to see if you have a case that you could pursue in the courts.

But remember that taking legal action is often uncertain, costly and time consuming, and is likely to permanently damage your relationship with your neighbour. It is almost always a last resort.

The **Getting more help** (p. 26) section of this booklet contains useful information on resolving disputes, local councils and getting legal advice.



# Getting more help

There are a number of organisations that can help you with neighbourhood issues and disputes.

If you need to resolve a neighbourhood dispute, or want information about how to make a complaint, there are a number of bodies that can help you.

## Dispute Settlement Centre of Victoria

The Dispute Settlement Centre of Victoria has offices throughout the state. They assess disputes, give advice about them and can refer you to other appropriate services. The centre also offers free and confidential mediation in which independent people with experience resolving disputes can help you and your neighbour find a mutually acceptable solution to your problems.

☎ 03 9603 8370

☎ 1800 658 528 (free call)

🌐 [www.disputes.vic.gov.au](http://www.disputes.vic.gov.au)

## Local Government Victoria

If you do not know which local council to speak to about a problem with a neighbour, Local Government Victoria can help you find out. Also, their website has links to Victorian local council websites.

☎ 1300 366 356

🌐 [www.dpcd.vic.gov.au/localgovernment](http://www.dpcd.vic.gov.au/localgovernment)

## Environment Protection Authority (Victoria)

The Environment Protection Authority (Victoria), more commonly known as the EPA, is an organisation responsible for protecting the environment in Victoria. The Environment Protection Authority's role is to regulate pollution, including noise from industry, smoke and odours.

☎ 1300 372 842

🌐 [www.epa.vic.gov.au](http://www.epa.vic.gov.au)



## Legal help

### Victoria Legal Aid

Victoria Legal Aid helps people with their legal problems, focusing on helping people on low incomes and those experiencing disadvantage. You can call Legal Help for free information, legal advice or other help over the phone. You can speak to someone in English or in your own language. You can also find legal answers, order free publications and watch videos about the law on the Victoria Legal Aid website.

☎ 1300 792 387

🌐 [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au)

### Law Institute of Victoria

Hiring a private lawyer can be the best option in some circumstances. A good place to start is the Law Institute of Victoria. It provides referrals to lawyers across Victoria. Law firms included in the referral service provide a free 30-minute inquiry interview. You can also access the referral service by downloading the LIV App from the Law Institute of Victoria website or the iTunes Store.

☎ 03 9607 9550

🌐 [www.findyourlawyer.com.au](http://www.findyourlawyer.com.au)

### Translating and Interpreting Service (TIS)


☎ 131 450


🌐 [www.immi.gov.au/tis](http://www.immi.gov.au/tis)



## Community legal centres

There are many community legal centres in Victoria. They provide legal information, initial advice and, in some cases, ongoing help. The Federation of Community Legal Centres can refer you to the most appropriate centre for your situation.

 03 9652 1500

 [www.communitylaw.org.au](http://www.communitylaw.org.au)

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## Notes

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## Resources


### Victoria Law

Easy-to-understand resources about popular legal topics, in English and other languages.

 [www.victorialaw.org.au](http://www.victorialaw.org.au)

### Fitzroy Legal Service's online Law Handbook

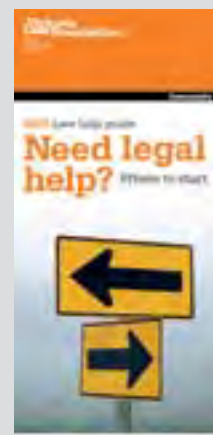
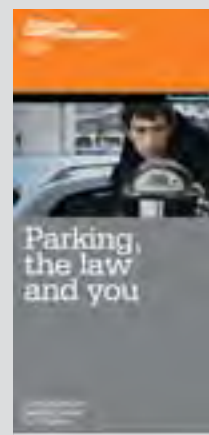
*The Law Handbook* is a useful practical resource that covers in more detail the law in Victoria relating to a number of neighbourhood issues, including animals, noise, fences and trees.

 [www.lawhandbook.org.au](http://www.lawhandbook.org.au)



# Have a legal problem?

**These useful publications may help you**



Available as PDF only

Order a copy or download at  
**[www.victorialawfoundation.org.au](http://www.victorialawfoundation.org.au)**



**“By providing valuable educational resources, Victoria Law Foundation continues to play an important role in breaking down the barriers between the media and legal sector.”**

**John Silvester**

Senior writer – law and justice, *The Age*



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