



# Legal Aid ACT

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Adult children  
**at home**



Some adults return home to live with their parents. **Some never leave ...**





## Legal Aid ACT

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Legal Aid ACT helps people in the ACT with their legal problems. We provide free initial advice and assistance on criminal, family, and civil matters, and ongoing assistance to people who cannot afford a private lawyer.

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**Postal Address:**

GPO Box 512 Canberra, ACT 2601

**Phone:** [02] 6243 3436

**Email:** [legalaid@legalaidact.org.au](mailto:legalaid@legalaidact.org.au)

**Website:** [www.legalaidact.org.au](http://www.legalaidact.org.au)

**Some adults return  
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Some never leave ...**



**W**hen adult children look to return to their parents' home, the request may be sudden and unexpected. On the other hand, sometimes your children have difficulty moving out, whether due to financial or social pressures. Having an adult child (and possibly their children too) sharing your house is not always easy and their behaviour may make things worse. Things may have been going well, but over time, these situations can take a turn for the worse, and some people even end up afraid of their adult children.

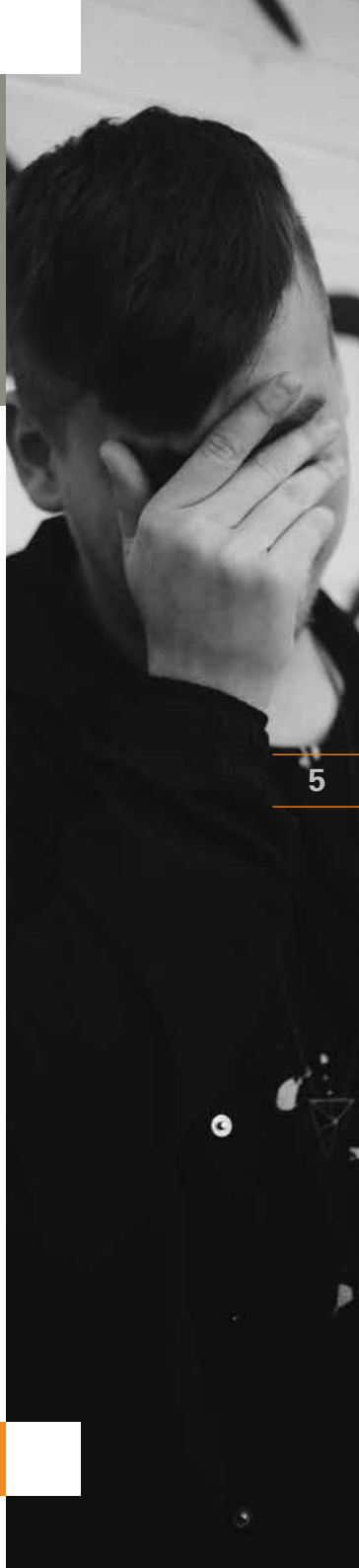
Your child could be dealing with a range of problems which may affect their behaviour and, over time, create problems for you:

- **Violence:** some adult children who return to their parents' home are fleeing violence, while others may have been the cause of it
- **Depression, anxiety or other mental health issues:** these issues may be brought on by the breakdown of a relationship or loss of a job
- **Mental health issues:** can also complicate any living arrangements put in place
- **Alcohol or drug abuse:** again, a common factor
- **Financial issues:** for instance problematic gambling can cause financial stress and dramatic mood swings
- **Unemployment and financial difficulties:** Australia is an expensive country for those on limited income
- **Family Breakdown:** sometimes adult children's relationships breakdown.

No matter how old your children are, and whether or not they now have children of their own, you will always be their parent. It is natural for you to want to do what you can to help them. But, your needs and welfare are equally as important.

If you allow your adult child to live with you in your home, it is reasonable for you to expect to:

- feel safe and secure at all times
- receive help around the house
- enjoy a quiet and/or tidy home
- be able to maintain your own routine, and pursue your own interests
- receive reasonable contributions towards food, bills and/or rent
- maintain your own social activities, hobbies and friends
- not have a constant stream of unwanted visitors
- not have anything happen at your house that is against your wishes.



**Your children's  
problems do  
not have to be  
your problems.**




**It is your right to  
choose who you  
live with in your  
home.**

### **What can you do?**

Whether your adult children already live in your home, or you are just discussing the possibility of them doing so, it's always a good idea to set out some ground rules.

Even if you don't want a formal, written agreement, it is wise to have a conversation about the different aspects of living together. Although conversations of this sort may be uncomfortable, many problems can be avoided when everyone has clear expectations. It also gives you a common foundation from which to raise any issues you may have later.


If you want your child to pay rent, it would be best to put your agreement into writing. Both you and your child should sign the agreement. You should seek legal advice about any agreement you draft.



**If you want them to leave, seek legal advice from Legal Aid ACT. A facilitated conversation, or even mediation through a dispute settlement centre may be helpful.**

## **The conversation**

The following questions may help to guide your conversation and convey your expectations.

- How long will they stay with you?
  - Will they pay money towards rent, food or bills?
  - How much money will they pay? How often?
  - Can they have friends visit or stay overnight?
  - Will you be cooking and eating together?
  - How are they expected to contribute to household chores?
  - Are they allowed to drink or smoke in your home?
  - How much notice will you give to them to leave if things are not working out?
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## What do you do if you want them to leave?

As the owner or renter of your home you have the right to say who lives there. Even if you invited someone into your home, you have the right to change your mind.

However, there is no easy way to make someone leave your home if they refuse to go, especially when it is your child. Of course you may want to maintain your relationship with them.

You have a few options if you want your child to leave.





## 1. Ask them to leave

Have a conversation with your child. If possible, choose a time when neither of you is tense, angry nor rushed for time. Be direct about why you want them to leave. Set a non-negotiable, but reasonable, timeframe for this to happen. Remember – it is your home.

## 2. Try mediation

If talking doesn't work, a mediation service may be able to help. A mediation service can help people, including families, resolve disputes by talking to each other in a safe and informal environment. It is voluntary and people can't be forced to attend. Relationships Australia or the Conflict Resolution Service provide mediation services in the ACT (see 'Where to get help' on page 18).

### Vivienne's story

**V**ivienne was in her late 80s and had been living with her middle-aged son Steven for a number of years, following his divorce. Steven received a carer's pension but did not provide his mother with any real care or support.

Over time, Steven increased his use of alcohol and drugs, which led him to abuse Vivienne verbally, financially and psychologically. He misused her possessions and made her feel embarrassed to have visitors at the house. Vivienne's quality of life suffered and she became depressed and fearful of Steven.

Legal Aid ACT met with Vivienne. It was clear that she wished to go on offering her son support, but felt she could no longer live with his abusive behaviour.

Legal Aid ACT assisted Vivienne with getting a safety plan and a lawyer wrote to Steven setting a deadline for him to leave the house. Legal Aid ACT also identified a range of support services that Steven could access and that would continue to offer Vivienne ongoing support.

Over time Steven left Vivienne's house and their relationship has improved.





## Use the law

If mediation also fails then you might have to take legal action against your child. The type of legal action you take will depend on your situation. You should talk to a lawyer about whether the law can help.

### 1. Elder Abuse Generally

Elder abuse is where harm or distress is caused to an older person in any relationship where there is an expectation of trust. The abuse can be financial, emotional or psychological, physical, sexual, social, or neglect (intentional or unintentional). In some circumstances it is a crime.



## 2. Is your child a tenant in your home?

The law may regard your child as a tenant in your home if you have agreed to let them live in your property and your child has exclusive use of an area in return for them paying you consistent regular money or rent.

There are particular steps you need to take before you can legally remove a tenant from your property, even if it is your child. Your

child may not be a tenant but an occupant, boarder or a lodger. In this case you will have to take different steps to remove them from your home.

You should talk to a lawyer about whether your child is a tenant or not, and the steps you need to take to remove them.



### 3. Trespass

Your child will be trespassing if they come onto your property without your permission, or if they refuse to leave after you have asked them to, unless they have a legal right to be there. (They will have a legal right to be there if they are a tenant or a co-owner of the property).

If your child is trespassing there are a number of things you can do.

You can:

- Get legal advice from Legal Aid ACT
- Change the locks to your house
- Talk to the police
- Send a letter and 'notice to vacate' to your child from yourself or a lawyer.

If you choose to write a letter to your child, you should also include a 'Notice to Vacate'. There is an example at the end of this Fact Sheet to guide you.



#### 4. Abuse or violent behaviour

No matter the situation, if you are experiencing abuse or violence, there are always court orders you may apply for:

- **Family Violence Order (FVO):** This is a court order that prohibits or restricts your child's behaviour.
- **An FVO can also include an exclusion condition:** This means your child has to move out and may be

prohibited from entering the property or coming near it.

Getting a FVO against your child is not a criminal matter and does not mean your child will get a criminal record. However, if your child disobeys a court order it is a criminal offence and they can be charged by the police. These orders can be made even if your child co-owns or co-rents the property with you. Legal Aid ACT can assist you with applying for an FVO.

## Staying safe

**Your personal safety is more important than anything**

– all other problems can be dealt with later. If you are in danger or feel unsafe because of your child's abusive behaviour, call the police on **000**. They can help in a number of ways, including removing the abuser and/or ensuring your immediate safety.

## Example **covering letter**

[Date that you give, post or  
email the letter to your child]

Dear [Name of child]

[I/We] want you to leave [address of property]

[I/We] have asked you to leave our property,  
and you have refused to do so.

[I/We] now have no other option but to use the  
law to make you leave.

Please read the attached Notice to vacate.

.....  
[Signature of parent]



## Example **notice to vacate**

To: [Name of child]

About: [Address of property]

[I/We] withdraw permission for you to continue to live in [my/our] property.

You should vacate the premises by [date].

If you don't leave by this date you will be in breach of section 4(1) of the Enclosed Lands Protection Act 1943 (ACT) and will be trespassing on the property.

[I/We] will report your trespass to the police and ask the police to remove you from the premises.

[I/We] may also remove your personal belongings from the property and change the locks without giving you any further warning.

.....  
[Signature of parent]

...../...../.....  
[Date delivered/  
posted/emailed]

## Information and Resources

Emergency '000'  
information in the person's  
own language  
([www.triplezero.gov.au](http://www.triplezero.gov.au))

For more information on  
living with adult children,  
see Legal Aid ACT's  
publication,  
**Care for your assets:  
Money, ageing and family**

**Legal Aid ACT**  
**[02] 6243 3436**

**9am–4pm Monday to Friday**  
**[www.legalaidact.org.au](http://www.legalaidact.org.au)**  
**Free legal advice and  
support services**

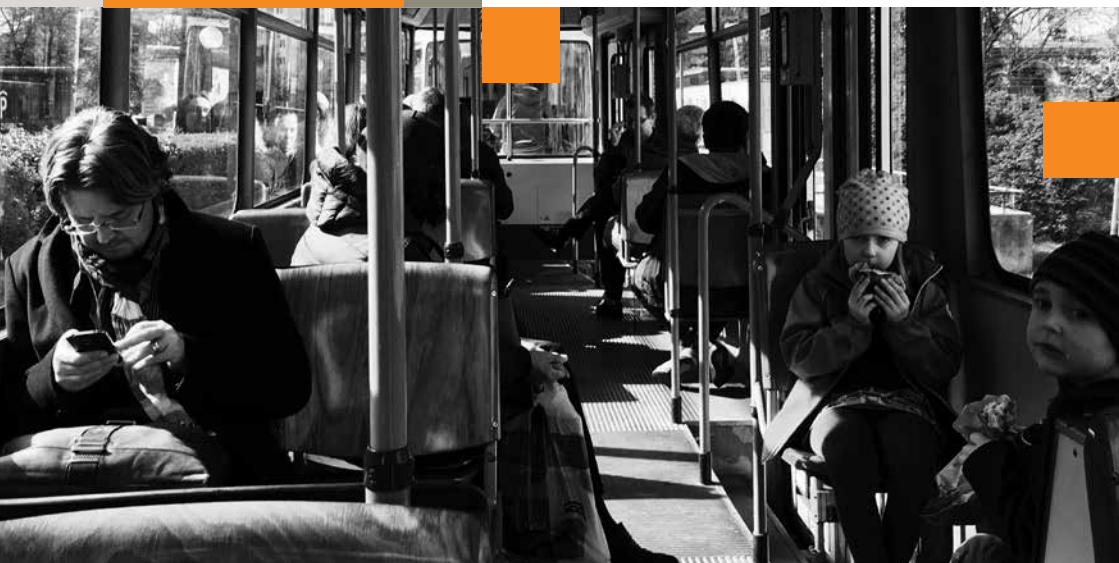
## Carers ACT

1800 242 636  
[www.carersact.org.au](http://www.carersact.org.au)

Free services and programs  
to help carers including  
information, counselling,  
workshops, referrals to other  
services and supports.

## Conflict Resolution Service

(02) 6190 7100  
[www.crs.org.au](http://www.crs.org.au)  
Provides mediation services  
in the ACT.



## **COTA (ACT)**

(02) 6282 3777

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

COTA ACT is the peak organisation for all issues relating to older Canberra citizens, seniors, those of mature age and their families.

## **Domestic Violence Crisis Service**

(02) 6280 0900

24 hours/7 days

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

Domestic Violence Crisis Service provides a variety of services from crisis intervention to community education.

## **Lifeline**

131 114 24 hours/7 days

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

Support in a crisis and suicide prevention.

## **Relationships Australia Elder Relationships Service**

(02) 6122 7100

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

The Relationships Australia Elder Relationship Service is a counselling and mediation service to support families who need help negotiating complex issues related to ageing.

## **The ACT Disability, Aged and Carer Advocacy Service (ADACAS)**

(02) 6242 5060

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

ADACAS provides help and support to people with disabilities, the elderly and their carers.

## **1800 RESPECT**

1800 737 732

[www.1800respect.org.au](http://www.1800respect.org.au)

National sexual assault, domestic and family violence counselling service.



IF YOU NEED HELP PLEASE CALL  
**[02] 6243 3436**

**FREE LEGAL ADVICE AND  
SUPPORT SERVICES**

**Legal Aid ACT**