

Women's Legal Information Booklet

Darwin Correctional Centre



**TOP END WOMEN'S
LEGAL SERVICE INC.**

FREE LEGAL ADVICE FOR WOMEN

Advice | Information | Referral | Advocacy

Acknowledgements

This Legal Information Booklet was produced by the Top End Women's Legal Service Inc. (TEWLS). It provides a starting point for women incarcerated at the Darwin Correctional Centre (DCC) to identify legal issues, and gives information and steps for these women to resolve these matters.

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Disclaimer

This Legal Information Booklet is for legal information only and is not a substitute for legal advice. It should not be used instead of speaking to a lawyer about your legal issue.

The legal information in this publication is subject to changing laws and policy. This booklet is correct at the time of publication, as of 1 July 2019.

Enquiries and feedback concerning this publication should be addressed to TEWLS by free call on 1800 234 441 or email to admin@tewls.org.au.

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About TEWLS

TEWLS is a community legal centre focused on the advancement of women's rights. We provide free legal services that are high quality, holistic, and culturally appropriate in civil and family law to women in the Greater Darwin region.

TEWLS visits the DCC on a regular basis to provide free legal advice and representation services, as well as community legal education workshops, to ensure that every woman has access to justice.

Everything you tell TEWLS is confidential, unless we are required to make a mandatory report under Northern Territory laws.

TEWLS can provide legal help with problems including:

- Debts
- Housing and tenancy
- Family law, including parenting, property, separation and divorce
- Domestic and family violence
- Complaints
- Compensation
- Superannuation and Estates
- Employment law

How to see TEWLS at DCC

If you would like to speak with TEWLS during a legal clinic or over the phone, you can:

- Submit a yellow request form to the Sector 4 Prison Support Officer (PSO) to be placed on the list for the next TEWLS clinic.
- Call the TEWLS office (DCC freecall number) and speak with one of our staff.
- Speak with TEWLS staff when they are in Sector 4 – TEWLS staff may be able to help you immediately, and if not, will include you on the list for the next TEWLS clinic.

About this Legal Information Booklet

This Legal Information Booklet aims to provide information and support for women in Sector 4 at the DCC.

Being in prison is difficult – it can impact many areas of your life, as well as the lives of your family and community. Being in prison can also bring up legal questions or issues, some of which you may need help with.

The Booklet aims to empower women to identify and seek help with legal issues while at the DCC, so that these issues are resolved or have started being resolved by the time that they are released.

A note about criminal law

If you need legal help with your criminal law matters – problems like seeking bail, going to Court for criminal charges, and sentencing – you will need to speak with your criminal lawyer.

You can seek free legal help for criminal law matters from the North Australian Aboriginal Justice Agency (NAAJA) or the Northern Territory Legal Aid Commission (Legal Aid).

Do you need an interpreter?

TEWLS can organise to speak to you with an interpreter of your language for free.

TEWLS are able to organise interpreters for most languages, including Aboriginal languages and Auslan.

If you would like to speak to TEWLS with an interpreter, please call our office on the DCC freecall number, make a request through the PSO or see a TEWLS staff member during the next TEWLS clinic.



Housing and renting

**Do you have a problem with the Department of Housing?
Did you have a problem with a landlord before you came to prison?
Do you have issues with rental arrears and/or repairs for your tenancy?**

What are the different types of tenancies?

Whether you live in public housing or rent through a private landlord, you will have a “tenancy” – an agreement for you to live in your house in exchange for the payment of rent, among other things.

In the Northern Territory, there are two types of tenancies:

- **Public tenancies** – tenancies through the Department of Housing and Community Development (known as the “Department of Housing”)
- **Private tenancies** – tenancies through a private landlord, real estate agent on behalf of a landlord or a sub-tenancy

How can tenancy affect me?

If you were renting a house before you came to prison, there can be issues for your tenancy including:

- Your tenancy going into rental arrears (known as a debt) because you can’t pay your rent

- Your tenancy being terminated because of your rental arrears
- Having a Tribunal order made against you about your tenancy because of issues including rental arrears or damage to your house

If you have a current tenancy while you are in prison, it is important to seek legal help as soon as possible to either save or end your tenancy with as little debt as possible.

What happens to my tenancy while I am in prison?

Tenancies are agreements between tenants and landlords. This means that any changes to a tenancy must happen either by agreement between the tenants and landlords or through a Tribunal order.

While you are in prison, your tenancy may be at risk - you should seek legal help as soon as possible to discuss what can happen with your tenancy while you are in prison.

Specific problems with housing and renting

1. Public tenancies – Department of Housing

<p>I have a current tenancy with the Department of Housing</p>	<ul style="list-style-type: none"> • If you have a current tenancy, you should seek legal help as soon as possible – as a tenant, you are responsible for paying rent and keeping your house secure, even when you are in prison. • Importantly, the Department of Housing has special rules about tenants being away from home – a lawyer can help you to understand these rules.
<p>I have previously had a tenancy with the Department of Housing</p>	<ul style="list-style-type: none"> • If you have previously had a tenancy and have had issues such as rental arrears or repairs, you should seek legal help – as a previous tenant, you can owe money (a debt) if there was trouble in your previous tenancy. • If you owe a debt to the Department of Housing, this can impact on any future public tenancies.
<p>I want to apply for housing with the Department of Housing</p>	<ul style="list-style-type: none"> • If you want to apply for housing, you can do this in prison – however, you are not eligible to be allocated or given a house until after your release. • You can also check on a previous housing application.

2. Private tenancies – private landlord

<p>I have a current private tenancy</p>	<ul style="list-style-type: none"> • If you have a current private tenancy, you should seek legal help as soon as possible - as a tenant, you are responsible for paying rent and keeping your house secure, even when you are in prison.
<p>I have previously had a private tenancy</p>	<ul style="list-style-type: none"> • If you have previously had a tenancy and have had issues such as rental arrears or repairs, you should seek legal help – as a previous tenant, you can owe money (a debt) if there was trouble in your previous tenancy.

How can TEWLS help me with housing and renting?

TEWLS can help you to speak with either the Department of Housing or your private landlord, real estate agent or primary tenant about your tenancy to make arrangements for while you are in prison.

If you and your landlord cannot agree, TEWLS may be able to assist you if the matter has to go to the Housing Appeals Board or to the Tribunal.



Fines

Have you received a fine?

Do you owe money to the Fines Recovery Unit?

Are you paying a fine through Centrepay or Centrelink payments?

What are fines?

A fine is a penalty for breaking the law, such as speeding, using drugs, and drinking in a public place. Fines can be issued by Courts, the Police, or another official such as a Council Ranger.

The **Fines Recovery Unit** is the Department that collects and manages fines for all people in the Northern Territory.

How can fines affect me?

If you owe fines and don't pay them, there can be consequences (known as "enforcement actions") including:

- Further fines being imposed, adding more money to existing fines
- Your driver's licence and/or car registration being suspended
- Your property being seized, including all personal property, except essentials for living and work

It is important to know that your fines do not expire and will not go away – this means that you need to pay your fines so that they can be removed from your record.

What happens if I have fines while I am in prison?

If you have fines while you are in prison, you must notify the Fines Recovery Unit that you are in prison as soon as possible – a lawyer can help you do this. Once you tell the Fines Recovery Unit that you are in prison, your fines will be placed on hold while you stay at the DCC, which means that the Fines Recovery Unit will not take further enforcement actions against you.

If you do not tell the Fines Recovery Unit that you are in prison, enforcement actions will keep happening, which could make your fines bigger – it is important that you tell the Fines Recovery Unit that you are in prison as soon as possible.

What happens if I have fines that I don't agree with?

After you contact the Fines Recovery Unit, you will receive a report of your outstanding fines – this is called a **Client File Summary**. Your Client File Summary will tell you when and why you got your fines, and how much you owe for each fine.

Sometimes, people have fines on their record that they don't agree with – for example, where other people were driving your car and ran a red light, where family or friends gave your name to Police when they got into trouble, or where a mistake has been made by a Government Department.

If you have fines that you don't agree with, you can dispute these fines through the Fines Recovery Unit – a lawyer can help you do this. If the Fines Recovery Unit agree with your dispute, they will remove the fine from your record and you will not have to pay it after your release from prison.

I have fines and am in prison – can I do anything about my fines?

While you are in prison, you may be able to ask the Court to add your fines to your sentence. You will need to speak with your criminal lawyer about whether you can do this.

To ask your criminal lawyer about this, you should give them a copy of your Client File Summary.

I've lived in other parts of Australia – what happens if I have fines there?

If you've lived in another Australian State or Territory and have outstanding fines in that jurisdiction, you will likely still owe those fines – just like fines do not expire in the Northern Territory, fines will not expire or go away in any other Australian State or Territory.

If you think you have fines owing in another Australian State or Territory, you should seek legal advice from a lawyer.

How can TEWLS help me if I owe fines?

TEWLS can help you to speak with the Fines Recovery Unit to put your fines on hold while you are at DCC and to request a copy of your Client File Summary.

TEWLS can also help you to understand and dispute your fines if you don't agree with them.



Owing money – debts

Is anyone chasing you for money?

Are you paying money for an item, like a TV or fridge?

Have you been contacted by a debt collector?

What are debts?

A debt is where a person owes money to another person or organisation. Examples of debts are money owed to Centrelink (see page 11 for help with Centrelink debts), a rental agreement for a fridge, a car loan, a phone bill, or money owed to a Government Department. Fines are also a type of debt – see page 8 for help with Fines.

How can debts affect me?

If you have a debt and don't repay it, there can be consequences including:

- Being “black-listed” by a credit reporting agency
- If you owe money to the Department of Housing, being unable to make an application for housing
- Your debt being on-sold to a debt collector
- Having a court order made against you

It's important to know that most debts will expire after a certain amount of time – you should seek legal advice from a lawyer to check whether you still owe your debt.

What happens if I have a debt while I am in prison?

If you have a debt while you are in prison, it is best to speak to the person or organisation you owe money to (known as a “creditor”) as soon as possible. You will need to speak with the creditor to tell them that you are in prison and to request that your debts be placed on hold.

If you can't speak with the creditor or they do not agree to put your matters on hold, you should speak with a lawyer to help you with your debt.

How can TEWLS help me if I have a debt?

TEWLS can help you to speak with the creditor to make an agreement about the debt while you are in prison. TEWLS can also help to dispute a debt if you think that you do not owe that money to the creditor.

TEWLS can also give you advice about bankruptcy, if required.

Centrelink debts

Do you have a Centrelink debt or owe Centrelink money?

What are Centrelink debts?

Centrelink debts (money problems) can include:

- Overpayment for failing to report income or change in circumstances, such as children living with other family
- Borrowing money from Centrelink
- Deductions to payments for failing to complete required activities, such as community development activities

How can my Centrelink debts affect me?

If you have a Centrelink debt and don't repay it, there can be consequences including:

- Impacts on your future payments from Centrelink
- Your debt being on-sold to a debt collector
- Having a court order made against you

It's important to know that at any time, Centrelink can look back into your records and impose a debt if things weren't right – if this happens, you should contact a lawyer for help to respond to Centrelink as soon as possible and within the time limit.

What happens to my Centrelink debts while I am in prison?

If you have a Centrelink debt while you are in prison, you should speak to Centrelink as soon as possible. You will need to tell Centrelink that you are in prison and request that your debt be placed on hold. While you are in prison, you are still responsible for keeping Centrelink updated about you.

If you can't speak with Centrelink or they do not agree to put your matters on hold, you should speak with a lawyer to help you with your Centrelink debt.

How can TEWLS help me if I have a Centrelink debt?

TEWLS can help you to speak with Centrelink to put your debt on hold while you are in prison.

TEWLS can also help to dispute your Centrelink debt if you think that you should not owe that money to Centrelink.





Children and parenting

Do you need help with children and parenting matters?

Are your children in the care of Territory Families?

Do you have child support obligations?

Children and parenting in prison

If you have children, you will likely be worried about their care and welfare while you are in prison – where and who they are living with, whether they can speak and spend time with you while you are in prison, and how they are coping without you. It is important to know that the law for children and parenting only applies to children under the age of 18.

In the Northern Territory, the law usually refers to two types of legal matters for children and parenting:

- **Parenting under the Family Law** – problems between parents or guardians **without** Territory Families
- **Parenting under the Care and Protection of Children Law** – problems between parents and guardians **with** Territory Families (also known as “Welfare”)

It is important to know what type of matter your problem is because this will impact where and how you can get help.

Parenting under the Family Law

The Family Law sets up a system to help people resolve the legal problems around family relationships, including parenting.

For parenting matters, the Family Law system focusses on the “best interests” of a child – this is the most important consideration for parenting. This means that children have rights, while parents and guardians have responsibilities.

People can make parenting arrangements in different ways, including by making an agreement together, going to mediation, or going to court. A lawyer can help you to understand the Family Law system and what to do next.

Parenting under the Care and Protection of Children Law

The Care and Protection of Children Law sets up a system for Territory Families to investigate child abuse and make care arrangements for children who are in need of care and protection. The main aim of this law is to keep children safe and to support families to care and protect their children.

Under this law, the CEO of Territory Families is able to do certain things to protect children. This includes referring families to counselling, entering into temporary placement arrangements, or applying to the Court for a Protection Order.

If you and your children have been working with Territory Families, you should seek legal help as soon as possible. A lawyer can help you to understand what is happening, including speaking with Territory Families about your children.

Mandatory reporting in the Northern Territory

In the Northern Territory, it is the law that you must report child abuse to the Police if you believe that a child has or is likely to suffer harm or a sexual offence – this is known as **mandatory reporting**.

If you think your child may be harmed by someone, even if they are in Territory Families’ care, you must tell the Police. If you do not make a mandatory report and you should have, you may be charged with an offence.

What happens if I have child support obligations and I am in prison?

If you were paying child support before you came to prison, you should speak with the Child Support Agency as soon as possible. You will need to tell the Child Support Agency that you are in prison and

update your income details. While you are in prison, you are still responsible for keeping the Child Support Agency updated about you.

How can TEWLS and other legal services help me if I have problems about children and parenting?

If you have a problem with parenting under the Family Law, TEWLS can help you by providing legal advice and possible ongoing representation. This may include speaking with the other parent or guardian or appearing on your behalf in the Family Court. TEWLS has also produced a series of factsheets about Family Law, which are available for free – please ask TEWLS for a copy.

If you have a problem with parenting under the Care and Protection of Children Law, TEWLS can help you by providing only legal advice. If you need ongoing representation, you can seek free legal help from NAAJA or Legal Aid.

If you have a problem with your child support obligations, TEWLS can help you to speak with the Child Support Agency about you being in prison.



Domestic and Family Violence

What is domestic and family violence?

Do you have or need a Domestic Violence Order after prison?

Has someone broken a Domestic Violence Order that protects you?

What is domestic and family violence?

Domestic and family violence is when someone in a domestic relationship with you, including a partner, family or housemate, makes you feel afraid, powerless or unsafe. Domestic and family violence can also happen after a relationship has ended, including an ex-partner, ex-girlfriend, or previous housemate.

Anyone can experience domestic and family violence – it happens to people of any age, culture, sex, and community.

Types of domestic and family violence can include:

- Psychological and emotional violence – humiliation, intimidation, control over movements, humbugging
- Physical violence – hitting, stabbing and punching
- Sexual violence – rape or inappropriate touching
- Financial violence – controlling your money
- Verbal violence – calling you names and swearing at you

- Cultural violence – being rude about your culture and stopping your cultural practise
- Stalking – following you, calling you or texting you when you've told them to stop
- Damaging your property, including your house or pets
- Threatening to do any of the above

You and your family members have a human right to feel safe and live without fear of violence. When someone perpetrates domestic and family violence, it is the offender's fault and they are breaking the law.

Mandatory reporting in the Northern Territory

In the Northern Territory, it is the law that you must report domestic and family violence to the Police if someone has or is likely to cause serious physical harm to a person, or if you are concerned that a person's life is under serious or imminent threat – this is known as **mandatory reporting**.

If you do not report it to the Police and you should have, you may be charged with an offence.

Children and domestic and family violence

It is important to know that there are serious impacts on children who have seen, heard or been involved in domestic and family violence. These impacts can include children having problems with learning (cognitive development), mental and physical wellbeing, as well as behaviour.

If your children have been exposed to domestic and family violence, you can ask a lawyer about what help may be available for them.

What are Domestic Violence Orders?

A domestic violence order (DVO) is a protection order made by the Local Court to protect one or multiple persons against domestic and family violence, including children. A DVO can stop someone from doing things like contacting you at all, contacting you when they are intoxicated, or being violent towards you – the rules of a DVO can be different for each case.

While the Local Court makes a DVO final, an application for a DVO can be made by a person wanting to be protected by a DVO or by a Police Officer. When a Police Officer makes the application, a DVO is instantly created, and will stay in place until the Local Court makes a decision about it.

When a DVO is made, it becomes an order of the Court. This means that

there are criminal consequences if the defendant breaches the DVO, including fines and going to prison.

What is the difference between a DVO and a PVRO?

While a DVO is for people who are or have been in a domestic or family relationship, a personal violence restraining order (PVRO) is for everyone else – this includes relationships like neighbours, work colleagues, and friends of friends. A PVRO is also a type of protection order and can stop someone from doing things, like a DVO.

How can TEWLS help me with domestic and family violence?

TEWLS can help you to identify whether you have experienced domestic and family violence and work-out what to do next, including help to make an application for a DVO or a PVRO.

If you have injuries because of domestic and family violence, TEWLS can provide advice and representation services for a Victims of Crime Compensation application – see page 16 for help with Victims of Crime Compensation.



Compensation

Have you been injured as a result of an act of violence, including domestic and family violence?

Have you been involved in a motor vehicle accident?

Have you made a compensation claim for a work-related incident?

Have you applied for compensation?

What is compensation?

Compensation is something given to someone in recognition of a loss, suffering or injury. Compensation is usually money (known as “financial compensation”) but can also be a replacement item or service, among other things.

What are the different types of compensation?

In the Northern Territory, the three most common types of compensation are:

- Victims of Crime Compensation
- Motor Accident Compensation
- Workers Compensation

For women in prison, the most common request for legal help about compensation is for Victims of Crime Compensation.

1. Victims of Crime Compensation

What is Victims of Crime Compensation?

Victims of Crime Compensation is a scheme for people to claim compensation, including financial compensation and medical or counselling services, after they have been injured from a violent act, witnessed a violent act, or are a family member or related person of the victim. The scheme allows the Northern Territory Government to recognise the impact of the crime on the victim.

Injuries and violent acts that can be claimed under the Victims of Crime Compensation scheme include:

- Domestic violence injuries, where there is a pattern of abuse
- Physical injuries, including broken bones and scarring
- Sexual violence injuries
- Psychological injuries, including depression and post-traumatic stress disorder.

You can also make claims for financial loss, including loss of wages.

How can I apply for Victims of Crime Compensation?

You should seek legal advice before applying for Victims of Crime Compensation – a lawyer can help you to determine your eligibility for compensation and fill out the necessary documents.

You must apply for Victims of Crime Compensation within two (2) years of the violent act – if you have suffered an injury as a result of a crime outside of this time frame, you can ask that the late application be accepted, however the application may be refused.

How will the compensation be decided?

Applications for Victims of Crime Compensation are determined by the Crimes Victims Services Unit. The **Crimes Victims Services Unit** use information provided in the application, as well as any records such as police or medical records, to decide whether compensation will be awarded.

It is important to know that applications for Victims of Crime Compensation take time to be resolved – usually around two to four years.

The Northern Territory Victims Register

If you are the victim of a violent or sexual crime, you have the right to receive information about the offender who committed the crime, such as information about how long they will be in prison and any applicable parole conditions.

The Northern Territory Victims Register provides information to victims of crime, upon application. To be included on the Register, you must complete the Northern Territory Victims Register application form and provide this to the Crime Victims Services Unit – a lawyer can help you do this.

How can TEWLS help me with Victims of Crime Compensation?

TEWLS can help you to identify whether you are eligible to make an application for Victims of Crime Compensation, including helping you to make the application.

TEWLS can also help you to make an application to the Northern Territory Victims Register.



2. Motor Accident Compensation

What is Motor Accident Compensation?

Motor Accident Compensation is a scheme for people to claim compensation after being injured in a motor vehicle accident. The scheme also covers the dependents of a person who died as a result of a motor vehicle accident.

It is important to know that there are restrictions on claims, including if you were the driver and you were affected by alcohol or an illicit drug at the time of the motor vehicle accident.

How can I apply for Motor Accident Compensation?

You can apply for Motor Accident Compensation by completing the Territory Insurance Office (TIO) application form.

You must apply for Motor Accident Compensation within six (6) months of the relevant motor vehicle accident – if you apply outside of this time frame, your application may be refused. If you apply to the TIO more than three (3) years after the relevant motor vehicle accident, the law says that the TIO must refuse your application.

How will the compensation be decided?

Applications for Motor Accident Compensation are determined by the TIO. The TIO use information provided in the application, as well as any records to determine whether compensation will be awarded.

3. Workers' Compensation

What is Workers' Compensation?

In the Northern Territory, workers who suffer a work-related injury or illness may be entitled to compensation and benefits to assist them in returning to suitable work.

How can I apply for Workers' Compensation?

You can apply for Workers' Compensation by completing the relevant application form, available from NT Work Safe.

You must apply for Workers' Compensation within six (6) months of the relevant motor vehicle accident – if you apply outside of this time frame, your application may be refused.

Consumer law

Have you had a consumer lease, such as a rental agreement for a fridge or washing machine?

Has something you bought broken soon after you bought it?

What is consumer law?

Consumer law is the law protecting people when they buy or rent items. The law covers people making rental agreements, buying items in a shop, and entering into contracts over the phone.

Consumer law includes protections for people entering into contracts, as well as consumer rights – these are called **consumer guarantees**.

How are consumer guarantees?

Consumer guarantees are rights for all people when buying most products or services. They are automatic guarantees that cannot be cancelled by businesses because they form part of the law.

Consumer guarantees include:

- A guarantee of acceptable quality – that the product lasts and remains safe for a reasonable period of time
- A guarantee of matching the description – this includes when you buy an item online

- A guarantee of a service being provided with due care and skill – this means that the service is being completed to an acceptable standard

I have a consumer lease – what should I do?

Consumer leases – rental agreements from companies like Radio Rentals – are covered under the consumer law and other legal protections. This means that the organisation must do the right thing under the law when making the agreement with you.

If you have a consumer lease and don't understand your agreement or think that something is wrong, you should seek legal advice.

How can TEWLS help me if I have a consumer law problem?

TEWLS can help you with your consumer law problem, including help to dispute a contract if the company has done the wrong thing under the consumer law.



Complaints

Has an individual, organisation or a Government Department treated you unfairly?

Has something happened in DCC that doesn't feel right?

What is a complaint?

A complaint is a statement that you can make about something that has been unacceptable or unsatisfactory for you.

For women in prison, the most common requests for legal help about complaints are for:

- Complaints about the DCC
- Complaints about Police
- Complaints about a health service

People can also make complaints against a financial institution (such as a bank) or consumer provider (such as a rental company), among others. A lawyer can help you to determine what type of complaint is appropriate for your situation.

What can I make a complaint about?

The most common types of complaints include:

- Complaints about someone not following the rules
- Complaints about someone being treated unfairly

You can also make a complaint about being treated unfairly because of things like your race, sex, pregnancy or religious belief – complaints about this treatment are called “discrimination” complaints.

When can I make a complaint?

It is important to make a complaint as soon as possible after the issue happens – sometimes there are time limits, which means that you must make a complaint within a certain period of time.

For example, general complaints about Police must be made within 12 months of the relevant incident, civil actions (court proceedings) must be made within two (2) months, and disciplinary actions within six (6) months.

You should seek legal advice as soon as possible if you have a complaint.

1. Complaints at the DCC

If you think that you have been treated unfairly or someone has not followed the rules while you are in prison, there is a special process that you must follow to make a complaint.

Step One – Initial Complaint

To make a complaint, you should ask for a **White Complaint Form** from an officer in the Sector 4 guardhouse. You should write down what you are complaining about and what you want to happen to fix or resolve your complaint. You should then give your complaint to an officer in the Sector 4 guardhouse.

For help on how to write your complaint, please see the template complaint on page 23.

Once you make your complaint, it will be considered and you will receive a response within a reasonable time frame. The time that it takes to receive a response will often be different for each complaint.



Step Two – Super's Parade or RASP

If you are not happy with the response to your Initial Complaint, for example if you think that your complaint was not considered, you can escalate your complaint to a Super's Parade – this is also known as a **RASP**.

To make a Super's Parade complaint, you should ask to complete the relevant book in the Sector 4 guardhouse.



Step Three – Office of the Ombudsman NT

If you are not happy with the response to your Super's Parade or RASP, you can escalate your complaint to the Office of the Ombudsman NT (known as the Ombudsman). The Ombudsman is a free call number at the DCC.

Before you make a complaint to the Ombudsman, it is a good idea to seek legal advice from a lawyer about your complaint. A lawyer can help you to identify the issues of your complaint and complete any paperwork, if necessary.

You must make a complaint to the Ombudsman within 12 months of the incident that is the subject of your complaint.



2. Complaints about a health service at the DCC

If you have a complaint about a health service at the DCC, you should first complete a **health complaint form**, instead of a White Complaint Form.

If you are not happy with the response to your complaint, you can make a complaint to the Health and Community Services Commission, which is the special organisation that receives complaints about health matters in the Northern Territory. The Health and Community Services Commission is a free call number at the DCC.

You must make a complaint to the Health and Community Services Complaints Commission within two (2) years of the service complained of.

3. Complaints about discrimination

If you have a complaint about discrimination, you can make a complaint to the Northern Territory Anti-Discrimination Commission, which is the special organisation that receives complaints about discrimination matters in the Northern Territory. Complaints about discrimination can be things such as discrimination that occurred because of your race, gender, or sex. The Northern Territory Anti-Discrimination Commission is a free call number at the DCC.

You must make a complaint to the Northern Territory Anti-Discrimination Commission within 12 months of the discrimination complained of.

What happens after I make a complaint?

When you make a complaint, a process then needs to be followed to investigate the complaint and see what happened, and then steps can be taken to try and resolve the issue or dispute.

How can TEWLS help me with complaints?

TEWLS can help you to identify where is the best place to make a complaint and give you legal help to make your complaint.

It is important to check the time limit for your complaint – sometimes, your complaint may not be accepted if it is made too late.

Template complaint – Complaint about the DCC

When you make a complaint about the DCC, you will need to complete a **White Complaint Form**. If you need help completing this form, you can use the below example or speak to a lawyer.

Important notes when you make your complaint:

- **Make your complaint as clear as possible** – be clear about the issue that you want to complain about and what you would like to happen to resolve the issue
- **Include important details** – make sure to include important details in your complaint, including when your complaint happened and anyone who may have witnessed the incident
- **Stay calm when writing your complaint** – it will likely be easier to read and address your complaint if you are able to stay calm and not include abuse on your White Complaint Form

TEMPLATE COMPLAINT



Step One – What is your complaint about?

I make this complaint about ...

[write here about what happened to you – you should try to include as much information as possible, including dates and times, the names of any DCC staff that were involved, and any details that you think are important].

Step Two – What would you like to happen with your complaint?

To fix this complaint, I would like ...

[write here about what you would like to happen now to fix or resolve your complaint – this could be getting an apology for someone who did the wrong thing to you].



Family law – separation, divorce and property

Have you recently separated from your partner or spouse?

Do you want to get a divorce?

Do you need help with property and financial arrangements following a separation?

What is family law?

The family law system involves all aspects of family and personal relationships, including children and parenting, separation, divorce and property. The family law system applies equally to all relationships, including marriages, de facto relationships and same-sex relationships.

See page 14 for information and help with children and parenting.

1. Separation

What is separation?

Anyone in a relationship can choose to separate or go their separate ways. This includes any couple, including de facto couples, same sex couples, married couples and any other relationship.

Separation happens when one person in the relationship decides to separate, acts on that decision and tells the other person. The other person doesn't have to agree to the separation.

How can separation impact me?

Separation can impact a number of areas of your life. When you separate you need to think about a number of things, such as parenting arrangements, property arrangements for things such as bank accounts, mortgages or loans, and practical arrangements for things like where you and your partner will live.

Separation can be an emotionally difficult, stressful and upsetting time, so it is important to ensure that you are supported in terms of your health and wellbeing, including your mental health. This can also include support for children, who may be exposed to parental conflict during separation.

What is the difference between separation and divorce?

While separation is the process of ending a relationship, divorce is the legal process of ending a marriage; it is only through a divorce application that you can legally end a marriage.

2. Divorce

What is divorce?

Divorce is the legal process of ending a marriage, including same-sex marriages. The only way to legally end a marriage is to make a divorce application to the Court.

How can I apply for divorce?

A divorce application must be made online to the Court, including payment. You can make this application by yourself or together with your ex-spouse. You do not have to agree with or seek permission from your ex-spouse to make a divorce application.

To be eligible to apply for divorce, you must have been separated from your ex-spouse for at least 12 months. There are also other requirements, which a lawyer can help you to understand.

What happens after I apply for a divorce?

Once you have applied for a divorce, the Court will decide whether to grant your divorce. The Court will look at whether you have been separated for at least 12 months, as well as whether there are any children that lived as a part of your family. If the Court makes your divorce order, you will become legally divorced one (1) month and one (1) day later.

You should get legal advice about making an application for divorce, including any service requirements and whether you will need to attend Court for your divorce hearing.

3. Property

What is property?

Property means all financial matters from your relationship – it includes things like houses, money in banks, superannuation, cars, mortgages and credit card debts. In family law, property includes all assets and liabilities of the relationship, including items in only one person's name.

Property arrangements are arrangements for how your finances and property will be divided at the end of your relationship. **You do not have to be married to be able to make property arrangements.** De facto couples, including same sex couples, can also make property arrangements.

A division of property is subject to the parties' circumstances, including the length of their relationship, contributions by the parties during the relationship, and their future needs.

When can I make property arrangements?

You can make property arrangements at any time during or after your relationship, but it is usually best to make arrangements shortly after separation.

However, after you separate and if you need the Court to make a decision about property, there are important time limits that you must know –



- **De facto couples** – you must make an application to the family law courts within two (2) years of your separation; and
- **Married couples** – you must make an application to the family law courts within 12 months of your divorce being finalised.

You should seek legal advice about the consequences for not observing these time limits, which can include the Court not accepting your application for property orders

I've separated from my partner – what should I do about property?

You should seek legal advice before agreeing to any payments or property arrangements to ensure that you are protecting any future entitlements.

There is no set division of property – each matter must take into account the parties' circumstances, including the length of the relationship, contributions by the parties during the relationship, and each person's future needs.

How can TEWLS and other legal services help me if I have problems about separation, divorce and/or property matters?

If you have a problem with separation, divorce and/or property matters, TEWLS can help you by providing legal advice and possible ongoing representation. This may include speaking with your ex-partner, making an application for divorce, or appearing on your behalf in the Family Court for parenting and/or property matters.

TEWLS has also produced a series of factsheets about Family Law, which are available for free – please ask TEWLS for a copy.

Deceased estates

Has your partner or immediate family member passed away? Do you need help with a deceased estate?

What are deceased estates?

Deceased estates is the legal process where an estate – meaning any property, money, debts or other items – is left behind when someone passes away. The law about deceased estates is different in every State and Territory in Australia.

Wills and intestate estates

When someone passes away, the first legal question we ask is whether there is a will – a document that states how the deceased person wishes their estate to be distributed after they die. A will also nominates a person or organisation who will be responsible for carrying out those wishes. Wills can be held in different places including by family, by a lawyer, or by the Public Trustee.

If a deceased person does not have a will, they have passed away “intestate” and the law tells us how their estate will be distributed.

Once you have worked out whether there is a will, you should seek legal advice about the next steps, which can involve making an application to the Court and distributing the estate.

What do I need to know about deceased estates?

It is important to make enquiries about deceased estates as soon as possible after the person passes away. This is because there are time limits about when you must make an application to the Court, among other things.

How can TEWLS help me with deceased estates?

TEWLS can help to give you legal advice about deceased estates, including how to find a will and what legal processes you need to complete for a deceased estate.

TEWLS cannot help you to make a will.



Superannuation

**Do you know where to find your superannuation benefits?
Do you have lots of different superannuation funds?**

What is superannuation?

Superannuation, also known as “super”, is a compulsory payment by an employer to an employee. It is a long-term savings fund set up by the Australian Government to make sure that people have money for when they retire. Super sometimes includes types of insurance.

When can I access my superannuation?

Generally, you cannot access your super unless:

- You are 65 years old
- You have reached your preservation age and retired
- You are transitioning into retirement

Your preservation age is dependent on the year that you were born – for example, for people born after 1 July 1964, their preservation age is 60 years old. A lawyer can help you to find out your preservation age.

Can I access my super early?

There are limited circumstances where you can access your super early. The law says that all super funds must assess applications for early release of super for situations like paying for medical treatment for you or a dependent or making urgent mortgage repayments. These are called “compassionate grounds”.

Some super funds allow for early access to super on financial hardship grounds. Unfortunately, this is not compulsory, so you will need to check if your super fund will allow early access because of financial hardship.

How can I find my super?

You can find your super by contacting the Australian Taxation Office (ATO). The ATO holds all information about super, including information about where super is being held. The ATO also holds “lost super”, which is super that has been transferred to the ATO after the super fund could not find the relevant member.

The ATO can also help to combine your super if you have lots of different super funds. This can happen if you have worked in lots of different jobs and you did not nominate a super fund when you started your new job.

How can I find a deceased family member’s super?

If someone close to you passes away, such as a partner or family member, you may be able to find and access any super benefits and/or insurance that they left behind. Generally, you will need to contact the deceased’s super fund to find out if you are eligible and what you will need to do next.

The Australian Taxation Office (ATO) holds all information about superannuation, including information about how much super there is and where it is being held.

How TEWLS can help

TEWLS can help you to speak with the ATO about your super, including locating your super. TEWLS can also give you legal advice about accessing your super, although, you are generally unable to access your super while you are in prison because of identification requirements.

Upon your release from prison, TEWLS can also provide referrals to financial counsellors who are able to assist in the development of a budget and giving advice about different super funds.



Employment law

**Have you been treated unfairly in your job?
Have you been underpaid by your employer?**

What is employment law?

Employment law is the law around going to work – it sets rules about workplace rights and obligations, including how employers must treat employees and how employees must act in the workplace.

Before coming to prison, you may have had problems at work. These problems could have included things like:

- Problems with pay, including being underpaid
- Problems with working conditions, including being treated unfairly
- Being unfairly dismissed from your job

Protections at work

All employees in Australia have protected rights at work. These protected rights include being free from discrimination, including discrimination because of race, colour and sex.

I want to get a job after I get out from prison – what do I have to tell a potential employer?

You do not always have to tell an employer about previous criminal records or your time in DCC.

However for some jobs, including jobs where you work with children or elderly people, you may need to provide further information regarding your criminal record.

There are laws that protect you from discrimination in the Northern Territory, including discrimination because of an “irrelevant criminal record”. Irrelevant criminal record means spent records or records that do not affect your ability to do a job.

How can TEWLS help me with employment law?

TEWLS can give you legal advice about employment law, including issues that you experienced before you came to prison.

TEWLS can also provide you further advice regarding what you may need to tell an employer when applying for jobs, as well as any discrimination problems.

After your release

1. Contact with TEWLS

After your release from the DCC, TEWLS will continue to provide you with legal help from our office in Darwin or at one of our various outreach locations in the Top End until your legal matter is finished.

If TEWLS are helping you with legal matters, it is important to stay in touch – this is because we will be unable to help you if we cannot get instructions from you.

You can contact TEWLS as follows:

Phone:
1800 234 441 or (08) 8982 3000

Email:
admin@tewls.org.au

Address:
Unit 2/17 Lindsay Street,
Darwin NT

2. Centrelink

Before you are released from the DCC, a Centrelink worker will meet with you to make sure that your Centrelink is resumed upon your release, if applicable.

3. Mental health and wellbeing

It can be difficult to manage the transition from life in prison to life outside of prison. It is very important to have support that can assist you at this time, including family, friends and support workers.

It can also be a good idea to seek emotional, as well as mental health and wellbeing support, including talking to a counsellor, psychologist, support worker or case worker to work through any problems or issues.

In the Darwin area, emotional, mental health and wellbeing services include:

- CatholicCare NT Counselling
- Anglicare Resolve
- Danila Dilba Health Service
- Relationships Australia NT
- Ruby Gaea (sexual assault specific counselling)
- SARC (sexual assault specific counselling)
- Dawn House (domestic and family violence specific counselling)



Useful contacts

LEGAL SERVICES

Top End Women's Legal Service (TEWLS)	1800 234 441
North Australian Aboriginal Justice Agency (NAAJA)	1800 898 251
Northern Territory Legal Aid Commission (NTLAC)	1800 019 343
Domestic Violence Legal Service (DVLS)	08 8999 7977

NON-LEGAL SERVICES

Women of Worth, YWCA of Darwin	08 8936 0500
Lifeline	13 11 14
1800 RESPECT	1800 737 732
Police (immediate danger)	000
Police (report a crime or DFV mandatory reporting)	131 444
Territory Families (child abuse mandatory reporting)	1800 700 250
NAAJA Throughcare	1800 321 201

WOMEN'S SHELTERS IN THE DARWIN REGION

Dawn House Women's Shelter	08 8945 1388
Darwin Aboriginal Islander Women's Shelter (DAIWS)	08 8945 2284
Catherine Booth House	08 8945 1388
YWCA Domestic and Family Violence Centre	08 8932 9155

Notes





TOP END WOMEN'S LEGAL SERVICE INC.

FREE LEGAL ADVICE FOR WOMEN

Advice | Information | Referral | Advocacy

Office: 2/17 Lindsay Street, Darwin NT 0801
Post: GPO Box 1901, Darwin NT 0801
Freecall: 1800 234 441
Phone: 08 8982 3000

TEWLS' number is on the DCC freecall list

Fax: 08 8982 3009
Email: admin@tewls.org.au
Web: www.tewls.org.au

Office hours: 8:30am – 4:30pm, Monday to Friday