

WHAT ARE MY LEGAL RIGHTS?

A handbook for young people



WHAT ARE MY LEGAL RIGHTS?

Day-to-day life can bring out a lot of legal problems which can be frightening and super stressful for young people. It is important that you know your rights, and where you can get help if you need it.

This booklet looks at some of the common day-to-day (problems and talks about your rights when dealing with other people or organisations and what you can do to resolve issues like unpaid fines, problems with your landlord, debts and more.

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BUYING STUFF

What is a contract?

Contracts happen all the time. You may not even realise you're entering into them. For example, when you buy clothes from a shop, that's a contract.

A contract is an agreement between two or more people to give something or do something in exchange for something else (often money).

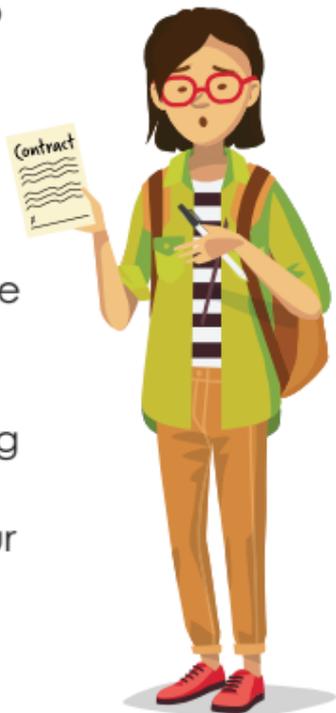
Contracts can be for things like mobile phone contracts, gym contracts, renting a house, or buying a car.

Contracts are legally binding. This means that whoever is part of the agreement can ask a court to order that the other person does what the contract says.

How do I know if a contract is legally binding?

For a contract to be legally binding it needs a few things:

- an offer (like a promise to pay money or give something to someone)
- an acceptance of that offer
- 'consideration'. This means that everyone who is part of the contract agrees to exchange something of value (like agreeing to pay your mobile phone bill in exchange for data on your phone).



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You can have a verbal contract. It is better to have a contract in writing because it shows what you agreed to. This is helpful if you can't agree on what was said.

Can I sign a contract if I am under 18, or do I need my parents to sign?

In NSW you can enter into a contract even if you are under 18.

There are laws to protect you. If you are under 18, you only have to do what the contract says if you benefit from it (like if you buy something that you need). If a contract is found to be misleading or unfair towards you, then a court can say you don't need to do what the contract says.

Sometimes the other party to a contract might ask your parent or guardian to be a guarantor. This means that if you don't do what the contract says, your parent or guardian has to do what the contract says.

(Can I get out of a contract? (i.e. contract for a phone)

Contracts will usually have a penalty, like a fee, if you try to get out before the contract is finished. There are some situations where you can get out of a contract:

- If you are under 18 and the contract is not beneficial to you
- If the contract has a 'cooling off' period you can tell the other party that you don't want to go ahead with the contract within a certain period of time

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Contracts can be confusing to read, so you may want to get a lawyer to look at it for you. Call 1300 888 529 for advice or a referral to someone who can assist.

I'm being chased by a mobile phone provider/gym for a contract that I can't afford, what can I do?

If you are being chased by someone (like a mobile phone provider) for a contract that you can't afford, speak to a lawyer. If you ignore the problem, it will get worse.

Call 1300 888 529 for advice or a referral to someone who can help.

ALL WORKERS HAVE RIGHTS

Full time, part time, casual, contractor - whatever type of worker you are - you have rights. You can find out more at www.fairwork.gov.au

Should I get a payslip?

Your employer must give you a payslip within a day of when you are paid.

A payslip must give you basic information like:

- your name and your employer's name
- how much you're being paid, your rate of pay, and how long you're being paid for.



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It can be on paper or sent to you by email. Make sure it is correct and keep it safe. This can be useful if you disagree with your boss over how much you should have been paid.

You can find out what should be on a payslip and what to do if you're not given a payslip on the Fair Work Ombudsman website or by calling 13 13 94.

Do I have a right to get paid for a work trial?

It is legal for an employer to ask you to do a trial without paying you. But the trial should only go for as long as is needed to show the employer that you have the right skills for the job.

If the trial goes for longer than that, you may have a right to be paid. Speak to

the Fair Work Ombudsman on 13 13 94 to find out.

How often should I be paid and how do I know if I am being paid the right amount?

You must be paid at least once a month. This can be in cash, by cheque or by transfer into your bank.

All employees in Australia have a right to a minimum wage.

Sometimes your pay is set by an award (this is an agreement that most employers use when setting pay rates).

Speak to the Fair Work Ombudsman on 13 13 94 to find out your correct rate of pay or visit their website.

I work as an apprentice, do I have the same rights as other employees?

Yes, you do. These rights can include annual leave, sick leave, public holidays and rest breaks.

Check your award or ask your employer if there is a registered agreement that applies to your job. This can tell you if there are any special rules that apply to you as an apprentice.

Call the Fair Work Ombudsman on 13 13 94 or visit their website to find out more about your rights.

You can also ask questions about your apprenticeship to Training Services NSW on 13 28 11.

My boss just sacked me. Is there anything I can do?

If you have been sacked you should speak to a lawyer as soon as possible.

If you think there was something unfair about the way that you were fired you have 21 days to apply to the Fair Work Commission. You may have other rights to make a complaint against your employer.

Click on the Chat with us button at www.legalaid.nsw.gov.au or call us on 1300 888 529 from 9am to 5pm, Monday to Friday (excluding public holidays).

YOU GET A FINE AND CAN'T PAY IT

What if I don't agree with the fine?

If you get a fine, you must do something about it. If you don't agree with the fine you have options, but you need to act quickly. If you do nothing, your situation will be worse.

If you want to challenge your fine, you have options:

Internal review

You can ask Revenue NSW to review the fine. You do this on the Revenue NSW website. You can do this if you believe that:

- a mistake has been made; or

- you have a good reason to explain why you did what you did.

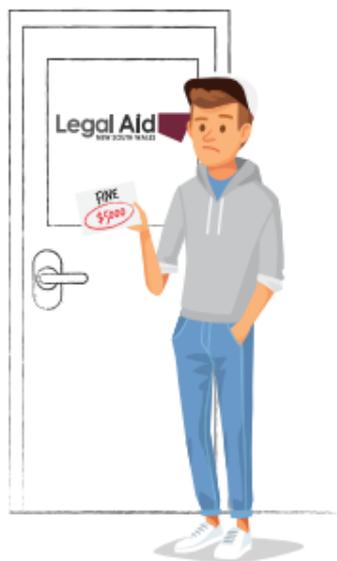
Revenue NSW have the option to cancel the fine, give you a caution, or keep the fine.

Can I go to court?

Yes, you can go to court if you:

- believe that you did not break the law, or
- want to ask the court to consider your personal circumstances.

Before choosing to go to court, you should speak to a lawyer.



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What if I get a fine for a camera recorded offence (like a speed camera fine)?

You can go through the same steps above. If you weren't the one driving you can also nominate the correct driver to avoid the fine. You can do this on the back of the fine or on the Revenue NSW website.

What can I do if I can't afford to pay my fines?

You can:

Apply for a payment plan

You can ask to pay the fine in an amount that you can afford each week.

If you get Centrelink you can ask for money to be taken out of your payments (Centrepay).

Work and Development Order (WDO)

Some people can clear up to \$1000 off their fines a month by doing an 'approved activity' with a WDO sponsor.

What is an approved activity?

An approved activity may include:

- medical or mental health treatment,
- unpaid work,
- education or courses,
- counselling or case management, or
- youth mentoring.

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Who can do a WDO?

You can do a WDO if you can't pay the fine, and you tick one of the following boxes:

- Acute economic hardship
- Under 18
- Mental, physical or cognitive impairment/disability
- Addiction to drugs, alcohol or some other volatile substance
- Homeless or living in temporary accommodation

You must do the activity with a WDO sponsor – here is how you find one

- Search the list of approved WDO sponsors on the Revenue NSW website
- Call the Revenue NSW WDO Hotline on 1300 478 879

- Ask an organisation or health practitioner that you are already use if they are, or would like to become, a WDO sponsor
- Contact the Legal Aid NSW WDO Service (see below)

Can I get my fines written off or waived?

Sometimes. This might happen when you can't do a WDO or you can't continue with a WDO activity.

Talk to a lawyer to find out if this is a good option for you.

How can I get more help with my fines?

The Work and Development Order Service gives free legal advice and help for people with unpaid fines. They can help you find a WDO sponsor.

Email: wdo@legalaid.nsw.gov.au

Call: LawAccess NSW on 1300 888 529
or use this QR code to find a WDO service in your region.



YOU RENT A HOUSE OR ROOM

What rights do I have when I am renting?

Your rights come from the agreement you have with your landlord. If you are a tenant, you also have rights in a law called the Residential Tenancies Act.

It is good to have a written agreement with your landlord so you know what your rights are. If you don't have a written agreement you may not be considered a tenant and the Residential Tenancies Act may not apply.

You can contact Legal Aid NSW or a local Tenancy Advice and Advocacy Service (TAAS) at www.tenants.org.au for advice about your rights.

When can the landlord increase my rent?

A landlord can ask for no more than:

- two weeks rent in advance
- bond (four weeks rent)

If you have a fixed term agreement (there is a finish date for your lease), your rent can't increase unless that lease has ended.

If the landlord wants to increase the rent:

- they must give you written notice
- the notice must be given a minimum of 60 days before the increase starts, and



- the increase can't start until the end of the term of the lease.

What are my rights if I have been asked to leave the property?

You do not have to leave your home just because someone asks you to.

Before a landlord can evict you, they must:

- give you a valid Notice of Termination, and
- apply to the NSW Civil and Administrative Tribunal (the Tribunal) for something called a 'termination order'. This is an order that says your rental agreement is finished.

At the Tribunal you can say if you don't agree with the Notice of Termination.

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Before you can be legally evicted:

- the Tribunal must make an order that your rental agreement has been terminated and make an order that the landlord can have possession, and
- an officer from the office must execute a warrant for possession.

The amount of time before you move out depends on the type of Notice you are given.

In a boarding house, you must be given a reasonable amount of time before you can be evicted.

Have a written agreement

Having a written agreement makes it clear what your rights and obligations are.

Can a tenant rent out part of a house or apartment?

Yes but only with the landlords consent.

What is a head tenant?

A head tenant is a tenant who rents out a room to someone else in a separate written tenancy agreement.

What is a sub tenant?

The person who rents a room from a head-tenant under a written tenancy agreement.

What are the rights of a sub-tenant?

They have the rights and obligations of a tenant in relation to the head-tenant, who is their landlord.



When can I get my bond back?

You can call Fair Trading on 13 32 20 to find out if your bond was lodged with them by the landlord.

If your bond was lodged, you can make a claim for your bond as soon as you give back possession of the property.

Giving back possession means that you move all your personal possessions out of the property and hand the keys back.

If your bond wasn't lodged with Fair Trading you can write to the landlord after you move out and ask for your bond back. Give the landlord at least 5 working days to reply.

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If you don't get a reply or you disagree with the amount that the landlord gives you, you can apply to the Tribunal to ask for your bond back. You can contact your local TAAS for free advice.

Do I have to do anything if my flatmate moves out?

If your flatmate is on the rental agreement and they want to move out you should speak to your local TAAS about the best way to take them off the agreement.

If your flatmate stays on the lease after moving out then the landlord could sue either of you to recover any money owed to them.

YOU HAVE IMMIGRATED

Can my visa or residency be cancelled?

Yes. Anyone who isn't an Australian citizen can have their visa cancelled if they don't pass the "character test". This includes if you are a permanent resident.

If you are sentenced to prison for 12 months or more (including a suspended sentence) your visa must be cancelled.

What is the character test?

It is a test that looks at things like your criminal record or criminal conduct.

The law says you need to remain of good character. If you pass it once, it doesn't mean that you will always pass it.

What can I do if I get a letter or email saying my visa is cancelled because of the character test?

You can:

- write to the Department of Home Affairs and ask them to change their decision. This is called a Request for a Revocation,
- fill out the 'Request for Revocation of a Mandatory Visa Cancellation' and the personal details form that came with the letter from the Department of Home Affairs telling you your visa was cancelled, and
- return these forms to the Department of Home Affairs within 28 days.

If you've already done this and they've still cancelled your visa, you only have 9 days from the date you are told your visa has been cancelled to appeal.

Can I get help if my visa is cancelled?

Legal Aid NSW can help you if you are:

- in an adult correctional facility – call Legal Aid NSW on the common auto dial list (CADL) as a free call. Press 11# and say that you want legal advice about visa cancellation, or
- the friend or family member of a prisoner – contact Legal Aid NSW on 02 9219 5790.

How do I become an Australian Citizen?

There is a list of things you need to tick off before you can become an Australian citizen. This includes things like:

- how long you have been in Australia,
- whether you are of good character, and
- whether you have passed the citizenship test.

I don't know what my residency status is, is there a way I can find out?

Legal Aid NSW can help you find out what your status is. You can also check your own residency status and visa

conditions on the Department of Home Affairs VEVO website.

If there are changes to your visa or residency status the Department of Home Affairs will usually tell you. Tell the Department of Home Affairs if you change your address so that they can contact you.

How I can get help?

LawAccess NSW can connect you with the legal information you need over the phone, through webchat or online.

Click on the Chat with us button at www.legalaid.nsw.gov.au or call 1300 888 529 from 9am to 5pm, Monday to Friday (excluding public holidays).

Why is it important to know my residency status?

It tells you what your rights and responsibilities are in Australia. This includes things like your right to work, travel, and social security.

If there are changes to your visa or residency status the Department of Home Affairs will usually tell you. Tell the Department of Home Affairs if you change your address so that they can contact you.

DEALING WITH POLICE

Do I need to answer police questions?

No. You usually don't need to answer police questions. This is called your right to silence.

If you decide you want to tell the police more than your name and address, talk to a lawyer first.



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Do I have to give my mobile phone to police if they ask ?

You don't have to give your phone to police just because they ask you for it.

Police can take your phone without your permission or without a warrant (an order from a court) if they have a good reason to think:

- your phone is stolen,
- you have used, or are going to use, the phone to commit a crime,
- taking your phone will help prevent or control public disorder (for example a riot or large fight or,
- taking the phone will give them evidence of a serious offence.

The police can keep your phone and use it in a court case. You will not get

your phone back until the court case is finished.

If the court finds you guilty of stealing the phone, it will be returned to the person who owns the phone.

Can I film the police?

Yes. You can film police when they are doing their job. Police cannot ask you to delete the images or recordings.

The police can charge or arrest you if you stop them from doing their job.

What can I do if I think police have abused their power?

You have a right to make a complaint about police or take them to court.

If you are treated badly by police, remember:

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- You have the right to silence. You only need to tell the police your name and address. You can ask to speak to a lawyer before you say anything else.
- Try to get the police officer's name and/or badge number.
- Write everything down that happened, especially:
 - ◇ what happened
 - ◇ when it happened
 - ◇ where it happened, and
 - ◇ the details of any witnesses.

Talk to a lawyer about your options. If you were hurt, get medical attention as soon as you can.

For free legal help, click on the webchat button at www.legalaid.nsw.gov.au or call 1300 888 529 or ask us for a copy of our Get Street Smart booklet (it has more info about your rights with police).

TOP CENTRELINK QUESTIONS FOR YOUNG PEOPLE

When can I get Centrelink payments?

Generally, you need to be at least 16 years old to get Centrelink payments. Which payment you can apply for will depend on your circumstances.

What if I am a student?

You might be able to get a payment called Youth Allowance if you are studying and either:

- you are over 18 and 24 or younger; or
- you are a 16 or 17 year old who:
 - ◇ has completed year 12 and is studying full time; or
 - ◇ is living away from home to study.

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If you are Aboriginal or Torres Strait Islander and studying, you might be able to get a similar payment called ABSTUDY.

If you are over 25 and studying, you might be able to get a different payment called Austudy instead of Youth Allowance.

What if I am doing an apprenticeship?

If you are over 16 and under 25 years old and doing an apprenticeship, you might be able to get Youth Allowance.

If you are over 25 and doing an apprenticeship, you might be able to get Austudy instead of Youth Allowance.

What if I am looking for work?

If you are over 16 years old and under 22 years old and looking for work, you

might be able to get a payment called Youth Allowance for jobseekers.

If you are over 22 years old and looking for work, you might be able to get Jobseeker Payment instead of Youth Allowance for jobseekers.

When can I get the independent rate of payment?

If you are **22 years old or older**, Centrelink says that you are independent.

If you are **under 22 years old**, Centrelink will say you are dependent on your parents or guardians.

If you are under 22 years old and you want Centrelink to decide you're independent, you must:

- be married or in a registered relationship (or you have lived in a

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de facto relationship for more than 12 months),

- have a child who is dependent on you,
- be looking for work and Centrelink decided you are unable to work more than 30 hours a week,
- have parents that can't look after you or you can't live at home because of 'extreme circumstances' like domestic violence or your family has broken down,
- be in care, including foster care,
- be an orphan who hasn't been legally adopted,
- be a refugee whose parents don't live in Australia,
- have worked full time for at least 18 months within a 2 year period (full time work is an average of 30 hours a week), or

- be working part time and your parents' home is in a regional or remote area and you have had to move away to study.

When do I need to report my income to Centrelink?

Every two weeks.

What type of income do I have to report?

You need to report your gross income (this is the money you earn before tax) and your partner's earnings.

If you are a jobseeker you need to tell Centrelink what your gross income was, even if you didn't have any income.

Income includes money you earn from a job, money you get as a gift or allowance, and money from investments.

Do I need to tell Centrelink if my personal circumstances change?

Yes. You need to tell Centrelink about changes to your life that might affect your Centrelink payment **within 14 days**. This includes things like, if:

- your address or contact details change
- the amount you are studying changes
- you change jobs
- your income or assets changes
- you marry or start living with your partner, or if you separate from your partner
- your child leaves your care

- you move out of home or move back to the home of your parents or guardians

If you get a compensation payment, you need to tell Centrelink about this within **7 days**.

When can Centrelink reduce my payment?

If your circumstances change you might not have a right to the same Centrelink payment. For example, if your income goes up or you start living with your partner, your payment might go down.

When can Centrelink suspend my payment?

Centrelink can stop giving you payments for a period of time (also

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known as suspending your payments) if you don't meet the 'mutual obligation requirements'. Sometimes Centrelink can say you don't have to meet the mutual obligation requirements.

What are mutual obligation requirements?

You need to

- enter into a Job Plan,
- actively look for work,
- attend job interviews,
- accept suitable offers of paid employment, and
- attend appointments with your employment services provider.

How can I get my payments again?

You may need to go see your employment services provider.

You can be given a demerit point if you don't have a good reason for not doing your mutual obligation requirements.

If you don't contact your employment services provider within 4 weeks then your payment can be cancelled.

What is a demerit point?

This is something the government can give you if you don't meet your mutual obligation requirements. If you get a certain amount of them your payments can be suspended.

What if I don't agree with a demerit point?

If you do not agree with a demerit point, speak with your employment services provider.

If you are still unhappy with the outcome after speaking with the provider, you can make a complaint to the Department of Education and Workplace Relations (DEWR) on 1800 488 064.

When can Centrelink cancel my payment?

Centrelink can cancel your payment if you don't meet one of the requirements for the payment.

What can I do if I don't agree with Centrelink reducing, suspending or cancelling my payment?

You can appeal the decision to a Centrelink Authorised Review Officer. It is important that you appeal the decision **within 13 weeks** to be eligible for back pay if your appeal is successful.

Can Centrelink ask me to pay them money back?

Yes. If you got a Centrelink payment that you shouldn't have received and Centrelink finds out, you will need to pay it back. This is called having a debt to Centrelink.

Can I appeal a decision by Centrelink that I owe them money?

Yes. You can appeal if you think Centrelink are wrong.

You can appeal if you have a good reason why you shouldn't have to pay.

There are no time limits for this, you can appeal a Centrelink debt to a Centrelink Authorised Review Officer at any time.

If you lied to Centrelink or think you may have broken the law in some way you should speak to a lawyer before you appeal.

Summary

There is more information about each of these payments on the Services Australia website.

It can be hard to understand the rules about Centrelink payments or what to do if Centrelink makes a decision you don't agree with. For free legal help, click on the webchat button at www.legalaid.nsw.gov.au or call 1300 888 529 between 9am to 5pm, Monday to Friday (excluding public holidays).

EXTRA STUFF

I can't get a job/youth allowance because I don't have enough Identification, what can I do?

Usually the type of identification that you need is a birth certificate. You need to have identification to apply for lots of things, like:

- Centrelink
- a job
- a drivers licence

It can be expensive to apply for a birth certificate. You might be able to get a free birth certificate, depending on your situation.

To find out what you can do, contact LawAccess NSW. Click on the webchat button at www.legalaid.nsw.gov.au or call 1300 888 529 between 9am to 5pm, Monday to Friday (excluding public holidays).

When can I leave school?

In NSW you must go to school from when you turn 6 until you turn 17 (or finish Year 10).

If you finish year 10 before you turn 17, you need to do some other type of study or training until you turn 17. You can do an apprenticeship, work 25 hours or more, or a combination.

If you want to leave school before you finish year 10 you need to apply for permission from the Department of Education.

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If you stop going to school before you are legally allowed to, your parents can get into trouble with the law and might end up with a large fine.

Do I need a Tax File Number?

You need a Tax File Number (TFN) if:

- you want to apply for Centrelink, or
- you want to start work.

The government uses your TFN to track your superannuation and taxable income.

Contact the Australian Taxation Office for more information or to apply for a TFN.

If you have more questions about how old you need to be to do stuff, check out the 'When can I?' resources on the schools and young people page at www.legalaid.nsw.gov.au

WHO TO CONTACT FOR HELP

LawAccess NSW

LawAccess NSW is a free information service run by Legal Aid NSW.

Click on the Chat with us button at

www.legalaid.nsw.gov.au or call

1300 888 529 (9am–5pm, Monday to Friday).

Legal Aid NSW Youth Hotline

Young people who think they might be in trouble with the law can call the Youth Hotline on **1800 10 18 10** (9am–midnight on weekdays, 24 hours Friday to Sunday and public holidays.)

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Legal Aid NSW free workshops for schools and young people

Legal Aid NSW has free specialised legal education sessions for young people, teachers and community workers that promote a better understanding of the law and how it can affect young people.

www.legalaid.nsw.gov.au

Community Legal Centres specialist children's lawyers:

- Inner City Legal Centre: 1800 244 481
- Western Sydney Legal Centre: 8833 0911
- Marrickville Legal Centre: 9559 2899
- National Children's and Youth Law Centre: 9385 9588
- Shopfront Youth Legal Centre Darlinghurst: 9322 4808

To find a youth worker call your local council.

- NSW Police Force Customer Assistance Unit: 1800 622 571
- NSW Office of the Children's Guardian: 8219 3600



Do you need help to contact us?



If you need an interpreter, call the Translating and Interpreting Service (TIS National) on **131 450** (9am–5pm) and ask for LawAccess NSW.

Do you find it hard to hear or speak?



If you are deaf, or have a hearing or speech impairment, contact us through the [National Relay Service NRS](#). Ask for LawAccess NSW on **1300 888 529**.



This publication is a general guide to the law. You should not rely on it as legal advice, and we recommend that you talk to a lawyer about your situation.

The information is correct at the time of printing, however it may change.

For more information contact LawAccess NSW on **1300 888 529**.



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www.legalaid.nsw.gov.au/ways-to-get-help/publications-and-resources

For more information, visit:

www.legalaid.nsw.gov.au

