

Seniors guide

to consumer rights in NSW



13 32 20

www.fairtrading.nsw.gov.au



Fair
Trading

NSW Fair Trading 13 32 20

Disclaimer

Information on this topic may have changed since this booklet was published. You can check our website for the latest information.

This publication is a plain language guide to your rights and responsibilities. It must not be relied on as legal advice.

For more information please refer to the appropriate legislation or seek independent legal advice.

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How can Fair Trading help me?

We are a NSW Government agency that safeguards consumer rights and advises businesses and traders on fair and ethical practice.

We can help you with information and advice about:

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This booklet briefly covers these topics, plus some handy tips and contacts. For more detailed information including downloadable fact sheets, visit www.fairtrading.nsw.gov.au or call 13 32 20.

Services for seniors

Free community talks

Are you looking for an expert speaker for your next community event, seminar, conference, workshop or information session? Our experienced staff can present on the topics in this publication. Each presentation is tailored to meet the needs of your group.

For details, email FairTradingSeminars@finance.nsw.gov.au or call 13 32 20.

Need a loan?

The 'No Interest Loans Scheme', funded by Fair Trading, offers loans up to \$1,200 for essential household goods and medical items. Call 1800 509 994 or visit www.nilsnsw.org.au

Have a vision impairment?

Our website has audio resources and large print fact sheets you can download. Or you can listen to a web page where you see the 'Listen' icon.

Have a hearing impairment?

We have a Teletypewriter (TTY) phone. For general enquiries call 1300 723 404. For Property, Real Estate and Business Licensing call 9619 8673.

Like to watch videos?

Visit www.youtube.com/NSWOFT to view a wide range of videos on all Fair Trading topics in English and translated into various languages.

Speak with an Aboriginal Enquiry Officer

Call about any Fair Trading matter on 1800 500 330 (free call). Fair Trading offers culturally appropriate services for Aboriginal communities.

Stay informed

Subscribe to our enews by RSS feed, Twitter, Facebook or our newsletters and email alerts. Visit www.fairtrading.nsw.gov.au

Need language assistance?

Call 13 14 50 and ask for an interpreter in your language. You can also get translated publications from the Fair Trading website.

Come to a free 'My Place' information session

Follow the links from our website to the events register to check when free Fair Trading seminars are taking place in your local community.

NSW Elder Abuse Helpline – anyone can make the call 1800 628 221

Elder abuse is any act within a relationship of trust, which harms an older person. It includes financial, psychological, physical, verbal, sexual abuse, and neglect. Use this free, confidential service for information, advice and referrals if you experience, witness or suspect elder abuse.



My shopping rights

Knowing your rights as a shopper can help you save time, money and avoid problems and disputes.



You have rights, known as consumer guarantees, when you buy goods or services and they break too easily, don't work or don't perform as expected.

The Australian Consumer Law (ACL) automatically gives certain guarantees when you hire, lease or buy goods or services from Australian suppliers, importers or manufacturers.

These guarantees apply regardless of any other warranties that a seller provides or sells you. This entitles you to a product that:

- is safe and of an acceptable quality
- lasts and has no faults
- looks acceptable and does what you would normally expect it to do.

Likewise, services should be:

- provided with care and skill, taking precautions against loss and damage
- fit for purpose or give the results you and the business agreed to
- delivered within a reasonable or agreed time.

If your product has a minor fault and can be fixed then it is up to the seller to decide if you get a refund, repair or exchange.

What happens if things go wrong?

If goods or services fail to meet any of these guarantees, you have rights against the seller and in some cases, the manufacturer, who must provide a remedy, such as:

- a repair, replacement or refund
- cancellation of the service
- compensation for damages and loss.

If it has a major fault you can choose to get a refund, repair or exchange. A product has a major fault if:

- it is unsafe or faulty
- it does not do the job it is supposed to do
- it is different to the sample or description you saw
- you would not have bought it if you knew about the problem.

The seller does not have to give you a refund, repair or exchange if you:

- change your mind about a product
- damage the product by not following the instructions or use it incorrectly
- were aware of the fault before you purchased the product.

Did you know?

If you receive goods or services as a gift, you have the same rights as the person who purchased them.



What about warranties?

A warranty is a promise offered by the seller that does not replace consumer guarantees. You can insist on a seller meeting a consumer guarantee even if the goods are covered by a manufacturer's warranty. A seller cannot avoid dealing with the problem by telling you it is the manufacturer's responsibility.

What about second-hand stuff?

Consumer guarantees apply whether the goods are new, 'seconds' or second-hand. Depending on things like price and age, it may be unreasonable to expect second-hand goods to last as long or perform the same as new ones.

But remember, consumer guarantees do not apply to one-off items bought from a private seller such as at a garage sale.

Buying online

When you buy goods or services online from a business based in Australia you are protected by the same ACL that applies to purchases from a physical store.

If you buy online from an overseas trader, the ACL may not apply or offer limited protection. This could make it difficult for you to benefit from a warranty or to get a refund, replacement or repair if you receive defective goods. Before buying from overseas, check on the availability of repairers and spare parts within Australia.

Only fill in credit card details on a secure web page. To check if a web page is secure, look for the padlock symbol in the bottom right of the browser window, or near the address bar. Pages with an address beginning with `https://` are also secure.



Need information about extended warranties, unsolicited agreements, misleading advertising, renting goods, interest-free deals or lay-bys?

Go to www.fairtrading.nsw.gov.au or call 13 32 20.



Handy online shopping tips

- Never provide your bank account details and password
- Make your passwords difficult to guess and keep them safe
- Check the web page is secure before providing credit card details
- Consider paying with credit card or PayPal
- Print and keep transaction documents
- Check your credit card statement regularly
- Learn how to keep your computer or mobile device virus-free

For more details, download the *Safe online shopping tips* fact sheet from our website or call 13 32 20.

Buying at an auction

It is a case of 'buyer beware' as the goods will not be covered by statutory warranties.

Before buying, check the quality of the goods and their average market value. You may not be able to change your mind once your bid is accepted. If the seller is not in business, Fair Trading laws may not apply.

Unsolicited agreements

When someone tries to sell you something uninvited at your front door, over the phone or in a public place you have specific rights. Such sales are called 'unsolicited agreements'. For example, if the seller approaches you in person they must:

- explain upfront why they are visiting and show ID
- inform you that you can ask them to leave
- leave immediately if you ask them to
- inform you of your cooling off rights.

Did you know door-to-door sellers must not contact you:

- before 9am or after 6pm on weekdays
- before 9am or after 5pm on Saturdays
- at any time on Sundays or national public holidays.

Did you know telemarketers must not call you:

- before 9am or after 8pm on weekdays
- before 9am or after 5pm on Saturdays
- at any time on Sundays or national public holidays.

Do a safety check

- To check recent product recalls visit www.recalls.gov.au or call 1300 302 502.
- To do a product safety check visit www.productsafety.gov.au or call 1300 302 502.

Do Not Call Register

You can register to stop unsolicited telemarketing calls. Go to www.donotcall.gov.au or call 1300 792 958.



Avoiding scams

We can help you know about the latest scams so you are better able to identify scammers and their offers.



Scams are designed to trick you into giving away your money and personal details. To succeed, scams appeal to our needs, fears or desires and look like ‘the real thing’.

Everyone will be the target of a scam at some stage in their lives. Scams come in many forms and reach you in many ways – by mail, email, SMS, telephone and door-to-door. Be very wary of offers that arrive out-of-the-blue urging you to take quick action.

Research shows that 1 in 20 Australians fall victim to scams. If an offer sounds too good to be true, it usually is!

Stop travelling con men

Travelling con men move from place-to-place, often in groups, and put pressure on you to have work done on your house. They ask for cash upfront and often take the money and run, leaving the job unfinished or poorly done. If approached call the National Hotline on 1300 133 408.

Top tips

Protect yourself against scams by following these simple tips.

- **Don't respond:** Ignore suspicious emails, letters, house visits, phone calls or SMS – press ‘delete’, throw them out, shut the door or just hang up.
- **Watch out for slick tricks:** Scammers will try to fool you with fake websites, glossy brochures, technical jargon or posing as someone who you know and trust.
- **Don't let scammers push your buttons:** Scammers will play on your emotions to get what they want.
- **Protect your identity:** Your personal details are private and invaluable – keep them that way.

The Australian Competition & Consumer Commission (ACCC) produces *The Little Black Book of Scams*. Order your free copy at www.scamwatch.gov.au or call 1300 302 502.

For more tips, visit the Scams section of our website or call 13 32 20.



My home

Whether you are renting a home, moving to a retirement village, living in a residential park or boarding house or simply wanting to explore your options, we can help you make informed decisions.



Are you thinking of your options for where to live now and into the future? Knowing your rights can help you make the right decision.

We can provide you with information about different types of permanent and temporary accommodation, including:

- renting a home
- living in a boarding house
- moving to a retirement village
- living in a residential community (also known as a residential park)
- strata living
- selling or buying your home.



Is there something in the tenancy agreement you don't understand or agree with? Ask questions and get it sorted before you sign. Remember, it is a legally binding contract with no cooling-off period.

Watch our *Help with tenancy problems* video available from the 'Tenancy' playlist on the Fair Trading YouTube channel.

Renting a home?

Knowing your rights and responsibilities when you rent can make all the difference in avoiding and resolving issues with your landlord, real estate agent or neighbours.

At the start of your tenancy, the landlord or agent must give you:

- a copy of the *New tenant checklist*, available from our website
- a copy of your lease (also called a tenancy agreement) with the rules for living in the home
- two copies of the premise's condition report for you to list any issues with the property
- a bond lodgement form for you to sign, so the money can be lodged with Fair Trading
- keys to your new home.

Did you know?

We offer a free complaint service for tenants, residents, landlords and property managers with tenancy-related matters or disputes. Our experienced staff will talk you through the issues and can contact the other party to negotiate an agreement. This service may be provided over the phone or onsite in your home or office.



Living in a boarding house?

Boarding houses, or lodging houses, provide accommodation for a fee. Often residents only have the right to occupy a room and share other facilities like the kitchen or bathroom.

If you live in a 'registrable' boarding house, which accommodates five or more paying residents, you have a basic set of rights called occupancy principles.

The boarding house operator must enter into an occupancy agreement; a written contract between you and them. It details your rights and responsibilities while you live in the boarding house.

'Assisted boarding houses' accommodate two or more people living with additional needs such as age-related frailty.

For details, visit www.adhc.nsw.gov.au or call 9377 6000.

What is the Boarding House Register?

It is a publicly available online register of boarding houses including the name, address and other details. To search, go to the Accommodation registers page of our website.

For more information call 13 32 20 or visit the Boarding houses section of our website for fact sheets and to download a copy of our *Living in a boarding house?* brochure.

Moving into a retirement village?

If you contact a village about becoming a resident, the operator must give you a general enquiry document. This document gives prospective residents general information about the village, including the village type, entry costs and the services and facilities available at the village. General enquiry documents allow you to compare costs and to shop around for the most suitable village for your needs.

We produce a *Moving into a retirement village?* brochure for prospective residents. For a free copy call 13 32 20 or visit the Retirement villages section of our website.

Living in a residential community?

Residential communities include residential parks, caravan parks or manufactured home estates. This housing option may offer a relatively lower cost and maintenance housing alternative.

While set-up costs may be lower than buying a strata unit or a house, there are ongoing costs such as fees to lease the site on which your home stands. Other fees may include electricity, gas, telephone and water charges.

Before deciding to buy into a residential community, take the time to discuss your decision with family, friends and advisers. Inspect a number of communities in the area you wish to live in. Ask a lot of questions and talk to some of the residents there.



Talk to residents about what they like and don't like about life in the village or community. Shop around, compare costs and read everything before you sign.

Before you sign

There are specific laws that relate to this unique housing option. Before you sign an agreement, carefully read all the documentation and be clear about your rights and obligations from the start. Make sure you fully understand the agreement and think about getting legal and financial advice before you sign anything. For useful contacts, refer to the *Need more help?* box at the end of this section.

For more information and fact sheets visit the Residential parks section of our website.

The NSW Government is replacing the *Residential Parks Act 1998* with a new Act. For details visit our website or call 13 32 20.

Moving to a strata unit?

A major difference between owning a house and a strata unit is that the unit's external walls, floor and roof do not usually belong to the lot owner. These are usually designated 'common property' and the owners corporation is responsible for maintenance and repairs. In effect, you own the inside of the unit but not the main structure of the building.

Some other features of living in a strata scheme are:

- you share ownership and responsibility for 'common property'
- if you own your unit, you are automatically a member of the 'owners corporation' which has responsibility for common property
- every 3 months you contribute to the cost of running the building through paying quarterly levies
- you pay money into a sinking fund, for future long term expenses such as painting the building or replacing guttering
- compared to a freestanding house, there will be lifestyle restrictions in a strata scheme, such as rules (by-laws) that:
 - may affect you renovating your unit
 - state where you can and cannot park your car
 - outline where you can dry washing
 - permit or ban pets.

For more information and fact sheets visit the Strata schemes section of our website or call 13 32 20.

It pays to do your homework

Before you buy into a strata scheme request a Section 109 certificate from the owners corporation. It provides details about the strata scheme such as the executive committee, the levies (including outstanding levies), and special by-laws. It may help you uncover costly issues such as structural building problems. You may want to hire a professional to help interpret the minutes and identify major issues.

The NSW Government is currently reviewing strata title laws. For more information visit our website or call 13 32 20.

Buying or selling your home?

If you are thinking of selling your home or buying a new one, understanding your rights and responsibilities in the property market is essential. We can help you with a range of information, fact sheets and advice on:

- getting finance
- property inspections
- making an offer
- conveyancing
- contracts and deposits
- buying at an auction
- buying off-the-plan
- buying into a strata scheme
- buying rural land
- the sale process
- using an agent
- selling without an agent.

For more information, go to the Selling property section or Buying a property section of our website or call 13 32 20.

For videos full of handy tips and information on buying or selling property visit www.youtube.com/NSWOFT



Make sure your conveyancer or real estate agent is licenced by using the free NSW Government online licence check facility. Visit our website and follow the links.

Need more help?

Home and Community Care (HACC)

The Home and Community Care (HACC) Program is a joint Australian and NSW Government initiative to help people live more independently in their own home and community.

To find a HACC service in your area call 1800 052 222 (free call).

Tenancy Advice and Advocacy Service (TAAS)

The Tenancy Advice and Advocacy Service (TAAS) provide free, independent information, advice and advocacy to tenants, residential park residents, boarders and lodgers in NSW.

Visit www.tenants.org.au to find your nearest TAAS.

LawAccess NSW

LawAccess NSW is a free government telephone service that provides legal information, referrals, and in some cases, advice for people who have a legal problem in NSW.

For more information call 1300 888 529.



Building or renovating

Understanding your rights and responsibilities – and those of the builder or tradesperson – will help your project go more smoothly.



If you are considering minor renovations or major building works to help meet your changing needs, we can help you with information and advice on:

- preparing for building or renovating
- selecting a tradesperson or builder
- the building process
- contracts and insurance
- resolving building disputes, and more.

Choosing a builder or tradesperson

Only a builder or tradesperson who is properly trained and has the relevant experience to do the work may be licensed with NSW Fair Trading. Any person who carries out residential building work over \$5,000 in labour and materials without an appropriate licence is breaking the law and could be prosecuted.

Stop travelling con men

Travelling con men move from place-to-place, often in groups, and put pressure on you to have work done on your house. They ask for cash upfront and often take the money and run, leaving the job unfinished or poorly done. If approached call the National Hotline on 1300 133 408.

Do a licence check

Check your builder or tradesperson is licensed before you hire. By law, they must be licensed for home building or renovating projects over \$5,000, and for all specialist work, regardless of its cost. Specialist work includes electrical wiring, plumbing and drainage, gasfitting or air conditioning and refrigeration.

Consumer building guide

Builders and tradespeople must give you a copy of the *Consumer building guide* before entering into a contract for residential building work costing more than \$5,000. Read this guide to help protect your rights, carry out your responsibilities and support your building project.

Visit our website to do a licence check, download a copy of the *Consumer building guide*, or find out about the new home building laws that started in early 2015. You can also call us on 13 32 20.



Buying and maintaining a car

Handy tips to help you make smart choices and know your rights when buying and owning a car.



Knowing what to look for can mean the difference between enjoyable motoring and a costly mistake.

Buying a car privately?

Do a Personal Property Securities Register (PPSR) check before you buy to find out if the vehicle has money owing or if it has been reported stolen. Visit www.ppsr.gov.au or call 1300 007 777.

Buying from a dealer?

Unlike buying privately, a licensed motor dealer must guarantee there is no money owing on the vehicle and may offer free statutory warranties.

For new passenger vehicles, the manufacturer must provide a minimum 12-month (from the date of sale) or 20,000km statutory warranty – whichever occurs first. For used ones, the dealer must provide a 3-month or 5,000km warranty as long as the vehicle is less than 10 years old and has travelled less than 160,000km

Any licensed repairer can service your vehicle, not just the dealer from whom you bought the car. So shop around!

Did you know?

We can help with complaints about new and used vehicles, deposits, warranty repairs, sales contracts and misleading conduct by licensed motor dealers. Go to the 'If things go wrong' section in this guide for more details.

Maintenance

Your vehicle's logbook or owner's manual sets out when it should be serviced and what maintenance needs to be done. If under warranty, you must have your vehicle serviced to the manufacturer's specifications or you may void your warranty.

Don't have a logbook? Ask the repairer or manufacturer what is involved with each type of service and its associated cost.

Make sure your motor vehicle dealer, recycler or repairer is licenced by using the free NSW Government online licence check facility. Visit www.onegov.nsw.gov.au/motorlookup

The Car buyer's guide

For tips and advice on car buying and owning, download a free copy of our guide from our website or call 13 32 20 for more information.



Planning ahead

Take control and make your choices known so they can be acted on if you cannot express them yourself at some time in the future.



Who will take care of everything if something happens to you? Who will inherit your property? Who will take care of your children, finances and medical needs? Planning ahead for yourself and the ones you love can be easier than you think.

Get it in black and white

To prepare a will or make a power of attorney, go to www.planningaheadtools.com.au or call 1300 887 529.

Organising a funeral

If you leave a will, the executor of your estate has the legal authority to arrange the funeral. If you don't leave a will, your next of kin, another family member or friend will usually arrange the funeral.

Some people plan their own funerals including finding a funeral director and making the arrangements they want instead of leaving it to others.

Quotes and costs

Funeral directors must provide an itemised quote for you to compare services and prices. Make sure it includes GST so you know the full cost.

A basic funeral (or 'economy' or 'budget' funeral) is the lowest cost funeral that includes a service. This service is conducted at the funeral director's premises or the burial or cremation site. If the funeral director offers the option of a 'basic funeral' they must give you a written quote which is called a basic funeral notice.

A direct committal is a cheaper option than a basic funeral and is offered by most funeral directors. It is a cremation or burial without a service. Family and friends can still arrange a memorial service at another venue.

Need more info?

Download our *Organising a funeral* fact sheet from our website or call us for a copy on 13 32 20.

Did you know?

All pre-paid and contributory funeral funds in NSW should be registered with Fair Trading. Before you commit, call 1800 502 042 to check the fund is registered.



Prepaid funerals

Some people make pre-payments towards their funeral. There are different types of pre-paid funeral arrangements including:

- contributory funeral funds
- pre-paid funeral funds
- pre-paid products such as funeral bonds
- membership benefits scheme
- funeral insurance.

For complaints about funeral providers or funds, Go to the 'If things go wrong' section in this guide.

Do-it-yourself funerals

You can choose to make some funeral and burial or cremation arrangements yourself when a loved one dies.

For details on Do-it-yourself funerals, visit www.seniorsinfo.nsw.gov.au or call 13 12 44.

Need help?

The Australian Government Department of Human Services provides payments, counselling and financial services to help people adjust to life after someone close to them has died.

Visit www.humanservices.gov.au or call 132 300.

If things go wrong

If you have a problem with a funeral director, firstly try to resolve it directly with them. If this is unsuccessful and the funeral director is a member of an association, the association may have a complaints resolution procedure which can assist. If this is also unsuccessful, call us on 13 32 20 or lodge a complaint on our website. For more details, go to the 'If things go wrong' section of this guide.



Checklist

Things to consider when organising a funeral:

- Is there a will and where is it located? It may have directions for funeral arrangements.
- Have any financial arrangements been made to pay for the funeral such as a funeral bond or insurance or pre-paid funeral?
- Do you know what type of funeral the deceased person would have wanted?
- Did they have a pre-paid grave or cremation niche?
- Have you contacted a few funeral directors, read their terms and received itemised quotes including basic funeral quotes (if this service is offered)?
- Is there enough money in the deceased person's bank account to pay for the funeral and have you contacted the bank about accessing the funds?
- Are there any sickness, accident, life, superannuation or private health insurance policies, which may make a payment towards the funeral?
- Was the deceased a returned service person or did they belong to any club, pensioner association or trade union, which may entitle them to a funeral benefit?
- If you or the deceased person received payments from Centrelink have you checked with Centrelink about a possible bereavement payment or allowance?



If things go wrong

When a problem arises with a business, trader, landlord or tenant, we can help you take the right steps to resolve it.



If things go wrong

If you have a problem with a business, trader, landlord or tenant, these steps may help you resolve it.

Step 1: Contact the trader or service provider and:

- Put your complaint in writing and always keep a copy of communications you send.
- Calmly and clearly suggest a resolution, for example, replace the item, refund your money, or fix the fault.
- If helpful, take a friend for support and to act as a witness.
- Note the name and position of the person you speak to.
- Take relevant documents such as contracts, receipts or quotes.
- Be polite and listen to what they have to say. They might suggest solutions you have not thought about, which may be mutually agreeable.
- Provide a reasonable timeframe for a resolution to happen.
- Provide your contact details.

Step 2: Contact Fair Trading

If you have made every effort to sort out the problem but do not receive a satisfactory outcome, contact Fair Trading on 13 32 20 or go to our website for information about your rights or to lodge a complaint online. In some cases our staff may contact the other party to help negotiate a resolution.

Step 3: Contact the NSW Civil and Administrative Tribunal (NCAT)

If the problem remains unresolved you can contact the NSW Civil and Administrative Tribunal (NCAT). The Consumer and Commercial Division of NCAT resolves a wide range of everyday disputes such as tenancy and other issues relating to residential property, and disputes about the supply of goods and services.

Application forms and the fee schedule can be obtained from the NCAT website at www.ncat.nsw.gov.au or by calling 1300 006 228.

For information and help on fair trading issues

Enquiries

13 32 20

Language assistance

13 14 50

TTY for hearing impaired

1300 723 404

Aboriginal enquiry officer

1800 500 330

Visit our website for details

www.fairtrading.nsw.gov.au



**Fair
Trading**

NSW Fair Trading

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