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Small Business Complaints Toolkit



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The Society for Consumer Affairs Professionals Australia (SOCAP) and
The Australian Centre for Justice Innovation (ACJI), Monash University

Building Better Relationships Through Complaints



Introduction

Complaints management in your business

Businesses are paying more attention to complaints handling. This is because:

- Good complaints processes can help businesses build their brand and improve their services (Sourdin, 2016)
- Badly handled complaints can cost time and money
- Poor complaint handling can mean that you end up in court or a tribunal
- A bad experience, followed by bad complaints handling can damage your business and your reputation
- Having good complaints processes also means that you will know earlier if there is a problem with your goods, services or people

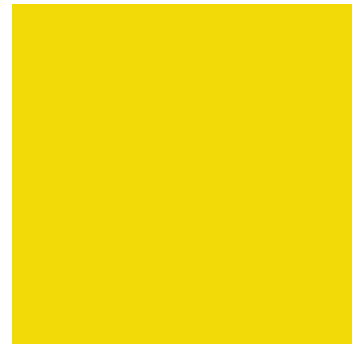
This toolkit sets out some strategies and resources that can be used when you deal with complaints. Links in the documents take you to additional reading (for example about legal frameworks) and online resources.



Please note:

Different organisations may have additional legal and industry requirements that set out how to deal with complaints. This toolkit does not override those requirements – it is intended to provide additional resources. The work has drawn from the New Australian Standard on Complaints and research about complaints and what works best.

+ Costs of complaints handling



Bad complaints handling can cost you:

- Customer/client loyalty
- The lifetime value of a customer or client
- The public image on your business
- Direct financial expenses relating to the complaint

On the other hand, good complaints handling can provide you with knowledge which can be used to:

- Improve products and services
- Build better relationships with your customers and clients
- Improve your bottom line

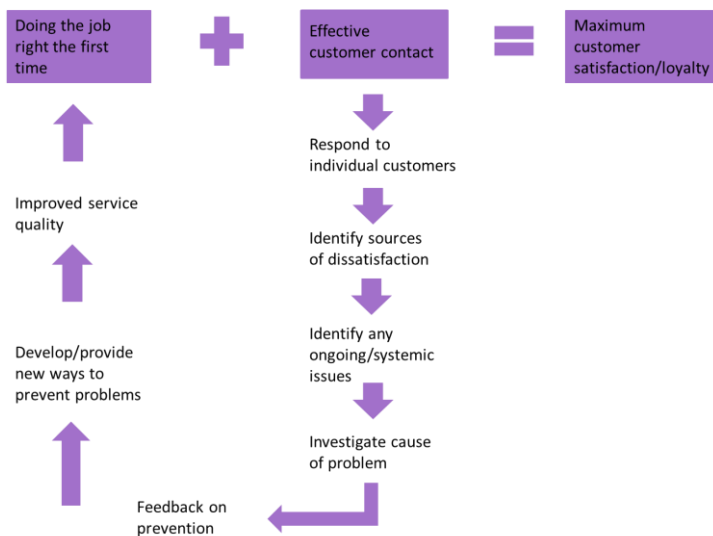
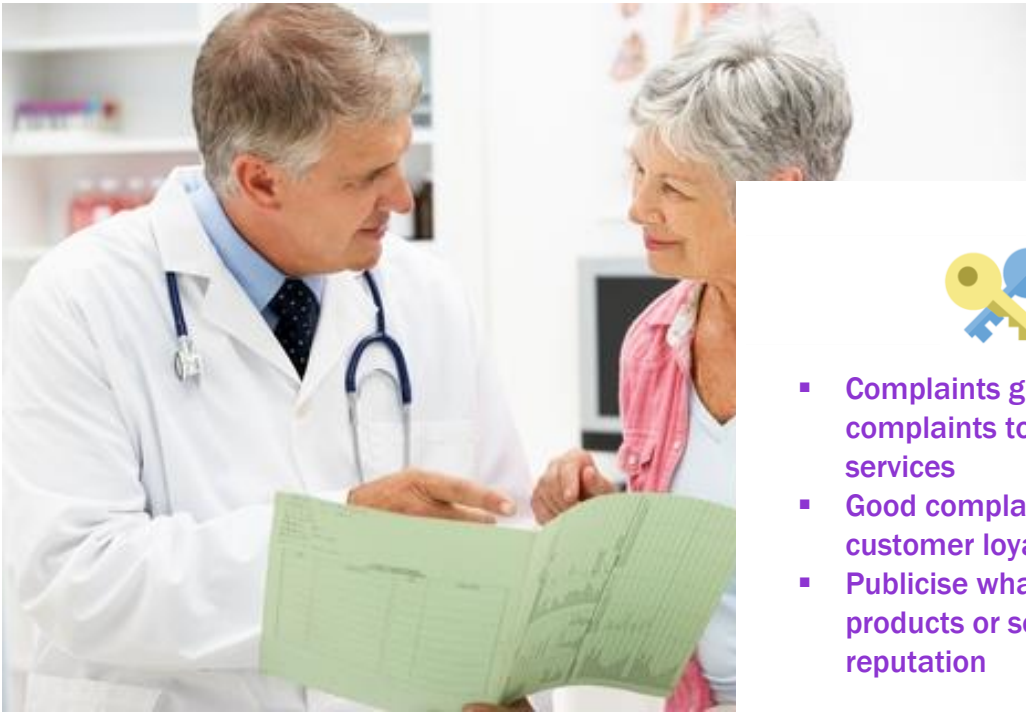


Figure 1.1 Maximising customer satisfaction and loyalty (Adapted from Dee 2011 and Technical Assistance Research Program).



KEY POINTS

- Complaints give you free feedback! Use complaints to improve your goods and services
- Good complaints handling increases customer loyalty
- Publicise what you do to improve your products or services and build your reputation

+ Guidance for your business: best practice

A number of 'best practice' complaint handling guides exist:

- **Standards Australia** has introduced new guidelines to help businesses with their complaints handling practices. These can be purchased from the Standards Australia Website: www.standards.org.au
- A framework that sets out the core competencies of those working with complaints is available here: **Australian Competency and Ethical Framework For Complaint Professionals** www.socap.org.au
- The **Benchmarks for Industry-based Customer Dispute Resolution** provide standards for industry-based dispute resolution in Australia and New Zealand. www.treasury.gov.au

Building solid relationships and return business



Approach complaints in the right way to build solid relationships and return business. You can do this through:

Appropriate marketing and systemic review

Your business might rely heavily on word of mouth marketing. Make sure you:

- Pay special attention to unhappy customers
- Keep track of what customers think
- Ask customers about their experiences with your business when they first buy or use your product

Ensuring fairness

- Make sure customers feel you are being fair by:
- Providing opportunities for people to have fair dealings with you
- Allowing people to voice their thoughts or concerns about your products and services

Good complaints management

- Good complaints management is important for increasing customer satisfaction.

Top four customer expectations:

1. The complaint will be dealt with quickly
2. It will be taken seriously
3. The other person will respond with empathy
4. There will be an apology

Social media



Tips for using social media for complaints handling:

Be prepared: when you set up your social media accounts, prepare rules and flow sheets for staff to ensure they all know how to respond to complaints.

Listen carefully and really understand the person's problem, before you respond.

Respond quickly (within a day) to show you really care about your customers.

Apologise first, by saying: 'I'm sorry for your bad experience,' followed by that person's first name. Make sure your tone is positive. You can build loyalty and trust by responding to complaints with a positive message. (Sourdin, 2016) There have been many studies done on the effectiveness of apologies.

For guidance on how to make a meaningful apology when someone complains, visit www.spsa.org.uk

Thank your customers. You can also thank them by giving them something in return (for example, a voucher).

'If you make customers unhappy in the physical world, they might each tell six friends. If you make customers unhappy on the internet, they can each tell 6,000 friends.' – Jeff Bezos, amazon.com

SOCIAL MEDIA CASE STUDY:

WHEN CANADIAN MUSICIAN DAVE CARROLL'S EXPENSIVE GUITAR WAS BROKEN DURING A 2008 FLIGHT ON UNITED AIRLINES, HE FILED A CLAIM WITH THE AIRLINE BUT UNITED REFUSED TO TAKE RESPONSIBILITY FOR 9 MONTHS. AS A RESULT HE RECORDED A PROTEST SONG ENTITLED 'UNITED BREAKS GUITARS', WHICH WENT VIRAL ON YOUTUBE, (WITH MORE THAN 12.5 MILLION VIEWS). UNITED AIRLINES FINALLY COMPENSATED THE MUSICIAN DUE TO THIS OVERWHELMING NEGATIVE PUBLICITY, AND CARROLL THEN STARTED 'GRAPEVINE', A COMPANY THAT HELPS CUSTOMERS USE SOCIAL MEDIA TO GET BETTER CUSTOMER SERVICE. (COOK, 2012)

FOR MORE EXAMPLES ABOUT COMPLAINTS AND SOCIAL MEDIA, SEE 'WHEN CUSTOMER SERVICE GOES VIRAL: THE GOOD AND THE BAD

VISIT DAILYFINANCE.COM



KEY POINTS

- *Customers want to know something happened as a result of their complaint*
- *Respond quickly! Most people expect a response within 24 hours – even if the response is that you are looking into it*
- *Publicise what you do to improve your products or services and build your reputation*
- *Monitor social networking – your customers will believe other customers before believing your advertising*
- *Build a great experience for customers when they complain*

Welcoming complaints

Having a publicly available, clear and simple message about how to complain on a sign or on a brochure, notice or invoice, and your business' complaint management policy should be accessible on your website or at your front counter. (Standards Australia, 2014).

This information should include:

- How to make a complaint and provide feedback
- Where to make the complaint
- When to make the complaint
- The information the complainants should provide
- The process for handling complaints
- The various time periods associated with the complaint process
- Options for review and redress
- How the complainant can obtain feedback on the status of their complaint



- *Remember that complaints are a good way to learn about how to improve your business and your bottom line*
- *Getting this information from customers is important, and statistics show that sometimes people don't complain because they don't know how to complain. If you make it clear and easy for them, you will benefit from their feedback*

CASE STUDY:

VIRGIN AIRLINES HAS AN ONLINE HELP SERVICE WHERE CUSTOMERS CAN ASK FOR HELP OR MAKE A COMPLAINT AND GET AN INSTANT REPLY. AIRASIA IS A LOW COST AIRLINE WHICH ENCOURAGES LIVE CHAT FOR CUSTOMER CONTACT, QUESTIONS AND COMPLAINTS. THESE COMPANIES ARE WELCOMING COMPLAINTS BY MAKING IT VERY EASY TO CONTACT THEM AND COMPLAIN. (COOK, 2012).

Have a clear complaints process

Your business' complaints handling policy should:

- Be clear
- Include the names and contact details of the specific person/people responsible for managing complaints and what they can do
- Include a process that allows the business manager to be made aware of complaints and the complaints handling process



KEY POINTS

- *Make it easy for customers to complain by providing them with all the information they need to make a complaint – you would rather hear directly from them than have them spread bad publicity about you to others*
- *Ensure that you create specific documentation (with relevant headings) or website pages which clearly relate to complaints, rather than just providing your contact details*



It is important that organisational promises for satisfaction be easy and painless for the customer to obtain (Stephens and Gwinner, 1998)

Staff awareness and frontline resolution

When dealing with complainants, your staff should be:

- Responsive
- Respectful
- Good at listening
- Assertive and confident

One way to ensure all staff can deal with complaints effectively, is to use a complaint handling competency framework.

To achieve competency and remain competent, staff need to receive continual training. You can access the Australian Competency and Ethical Framework for Complaint Professionals from the SOCAP Australia website socap.org.au

The LEARNT process for dealing with complaints is a simple framework that you can use and teach your staff (Cook, 2012).

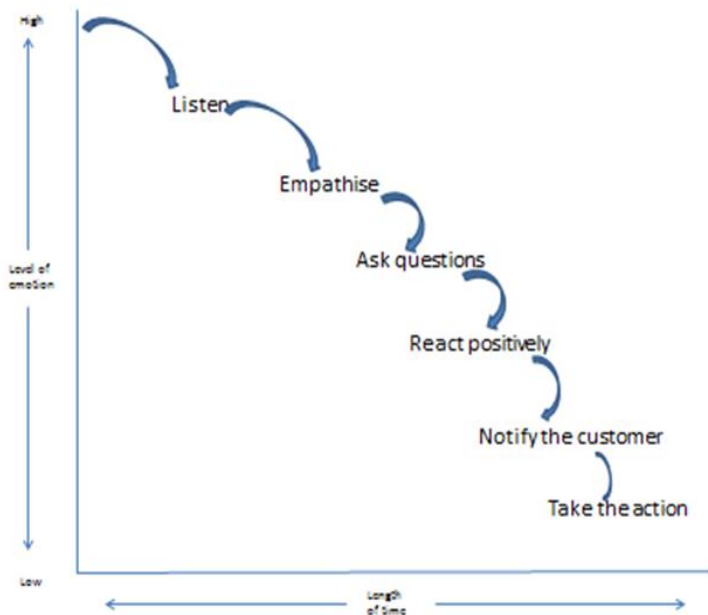


Figure 1.2 uses The LEARNT process for dealing with complaints. From Sarah Cook, *Complaint Management Excellence*, 2012, US, p92.



- *Try to resolve disputes at the lowest level possible and make sure staff members understand their roles in complaint handling.*
- *Make sure your staff are continually refreshing their knowledge about complaints handling and your policies and procedures, and that they understand what aspects of the complaint they need to record.*

Acknowledge receipt of all complaints

It is best to acknowledge all complaints promptly, as soon as they are received (if not received in person)

Think about how to respond to the complaint.

Some customers/clients may prefer that you adopt the method they used to complain (eg email). However, sometimes picking up the phone works best.

Letter

You might want to acknowledge receipt of the complaint in writing. A template for a Letter of Acknowledgement and a Complaints Response Letter are on page 19.

Social media

Social networking has the power to make or break your business reputation, as the public will readily believe customers when they write about good or bad experiences with a business. You can use social media and social networking sites to respond to and monitor complaints.

CASE STUDY:

MICHAEL IS A LAWYER WHO PRACTICES AS A SOLE PRACTITIONER IN HIS OWN FIRM. ONE OF HIS CLIENTS POSTS A MESSAGE ON MICHAEL'S PROFESSIONAL FACEBOOK PAGE WHILE MICHAEL IS ON LEAVE, COMPLAINING THAT HE THINKS THAT HIS BILL IS INCORRECT. WHEN MICHAEL SEES THE COMPLAINT, HE IMMEDIATELY POSTS AN ACKNOWLEDGEMENT OF THE COMPLAINT AND CALLS THE CLIENT. HE TELLS HIS CLIENT THAT HE WILL CHECK THE BILL AND RESPOND TO THE COMPLAINT THE FOLLOWING DAY WHEN HE IS BACK IN HIS OFFICE.



- *You can use the LEARNT six step process to respond to complaints in person or in writing.*
- *Make sure you regularly and carefully monitor social networking sites closely and respond accordingly.*
- *When writing a letter to acknowledge receipt of a complaint, make sure the language is clear and has a polite tone, and ensure it includes all the customer's issues, what you have done so far, and any ongoing action and next steps, as well as a timeframe for when they can expect to hear from you again.*

Assess the complaint

Steps for assessing the complaint

There are some important steps you need to take in order to effectively assess a complaint. These are:

- Identify whether or not the complaint is one that means you have obligations under the Australian Consumer Law, 2011 (ACL) – see page 23
- Assess the level of seriousness of the complaint (for example, is it an urgent health issue?)
- Work out whether the complaint is about a product or service, and therefore, who is the most appropriate person to deal with this complaint
- Consider whether there are multiple complaints and if so, whether they need to be dealt with separately
- Consider the situation of the person making the complaint (are they more vulnerable than some?)

Vulnerable consumers

Some customers might be especially vulnerable.

For example, they may not be fluent in English, have an intellectual or physical disability, have a very low income or be experiencing a crisis.

It is important that your business allows these people to make complaints easily and that they are dealt with in a way that will be most helpful for them.

Working out whether a person is having these difficulties requires you to have an assessment process in place.

For more information on vulnerable consumers, please refer to Vulnerable Consumers Factsheet on page 21.

Manage expectations

You need to provide the person who made the complaint with information about what you intend to do about the complaint and evaluate the person's response. If you feel that it is likely the described action will satisfy the complainant, then you should take this action promptly, but if further review of the complaint is necessary, give the complainant a clear timeframe for when to expect a response or a progress update (Standards Australia, 2014).

Service guarantees

Some organisations have service guarantees. Service guarantees let customers know in advance that they will receive a refund or compensation if they are unsatisfied with the product or service. This means customers know what to expect, and complaints are minimal.

To use service guarantees, your business must be very confident about every aspect of its service and products. These guarantees can offer a competitive advantage compared with other similar businesses. If the guarantees are fulfilled, this helps to show that your business is honest. (Cook, 2012).



Research shows that 40% of complaints arise because customers have inadequate information about a product or a service. (TARP, 1990).

Communication and commitments

The key to complaint management and managing expectations for the customer, is good communication. Making sure when the customer can expect to hear from you is important, and it is also important to keep your promises. If you say you will get back to a customer at a certain time, make sure you do this, even if you haven't been able to progress the resolution.



CASE STUDY:

JANE OWNS A CUPCAKE FRANCHISE WHICH HAS BECOME VERY BUSY OVER THE SUMMER MONTHS, CATERING FOR END OF YEAR AND SEASONAL PARTIES. DURING ONE PARTICULARLY BUSY WEEK, SOME OF THE ORDERS OF CUPCAKES WERE RUSHED, AND SOME DID NOT RECEIVE THEIR ICING. WHEN THE CUSTOMER RANG TO COMPLAIN ABOUT THE CUPCAKES NOT BEING COMPLETE, SHE APOLOGISED IMMEDIATELY, AND ASKED WHEN THE CUPCAKES WERE NEEDED. THE CUSTOMER TOLD HER SHE NEEDED THEM THE FOLLOWING DAY, HOWEVER JANE WAS NOT SURE WHEN SHE WOULD BE ABLE TO PROVIDE THE COMPLETE CUPCAKES. SHE TOLD THE CUSTOMER OVER THE PHONE THAT SHE WOULD SEND THEM A TEXT MESSAGE BY 3PM THAT DAY, EITHER LETTING THE CUSTOMER KNOW WHEN SHE COULD EXPECT TO RECEIVE A NEW BATCH OF CUPCAKES, OR, IF SHE COULD NOT PROVIDE THEM BY THE FOLLOWING DAY, PROVIDING THE DETAILS OF ANOTHER CUPCAKE PROVIDER (FROM THE SAME FRANCHISE) WHO SHE KNEW COULD SUPPLY THE CUPCAKES THE FOLLOWING DAY. AT 3PM JANE SENT A TEXT MESSAGE TO THE CUSTOMER LETTING HER KNOW SHE COULD PROVIDE THE CUPCAKES EARLY THE NEXT MORNING.



KEY POINTS

- *If progress on a complaint is delayed, tell the complainant as soon as you can.*
- *Make sure the complainant knows when they can expect to hear from you.*

Inform the complainant of the outcome of the complaint

Once the complaint has been considered or resolved, you need to tell the complainant about:

- The action that was taken by your business
- The outcome(s) of the complaint
- The reasons for the action taken and the decisions made
- What you are offering them (eg, compensation, apology)
- Information about what else they can do if they are not happy with this outcome and/or resolution (Standards Australia, 2014).

Once you have done everything possible from your perspective to resolve the complaint, let the complainant know the outcome. If this outcome is not satisfactory for the complainant, explain your decision and offer the complainant other possible actions or referrals (Standards Australia, 2014).

A template for a complaints handling letter is on page 20.



- *Provide notice of the outcome, your reasons, and options for the complainant to take other possible action, in writing.*
- *Take the opportunity to publicise your improvements as a result of complaints, so that other potential customers can see them.*

What the law says

Industry Specific Requirements

When you receive a complaint you should know in advance what is required in your industry. In addition, there are other legal matters to consider and some of the most important are listed here. See Legal Framework on page 22.

Agreements

There are some matters that you are required by law to do when you make arrangements about goods and services and you cannot make an agreement not to do them.

Sometimes, the law will only apply if the person or organisation who obtains the goods and services is a 'consumer'.

Legislation

Some of the most relevant legislation in this area is The Australian Consumer Law, 2011 (ACL) which aims to protect consumers and ensure fair trading across Australia. You may need to consider and comply with the duties in the ACL.

To be kept informed about competition and consumer law updates which relate to small businesses you can subscribe to the ACCC's Small Business Information Network (SBIN) which is a free information service. Simply email your name and business details to smallbusinessinfo@acc.gov.au



KEY POINTS

- *Make sure you are aware of your legal obligations, if any, which might apply specifically to your business.*
- *Make sure your agreements are well written and clear – get some advice about drafting agreements if you need to.*

Record Keeping and Reviewing Data

Information collection

Your business' information collection about complaints should include:

- A process for identifying, gathering, maintaining, storing and disposing of records
- Recording each complaint and keeping these records
- Maintaining a record of the staff training that those who receive complaints have had
- Criteria for responding to requests for records and relating to publication of any records kept. (Standards Australia, 2014)

Reviewing your data

Regularly review any complaint data to see if there are any service improvements you can make to decrease complaints and improve satisfaction (Sourdin, 2016).

One way to do this might be to do brief regular reviews and an annual review. (Standards Australia, 2014).



KEY POINTS

- *Your business should keep accurate and up to date records of all complaints, the action you have taken, the decisions made and the outcome (Standards Australia, 2014).*

A good test to see whether the details of the complaint have been well recorded is to ask yourself: if I sent this record to another person who manages complaints in my business who knows nothing about this, would they be able to take over management of the complaint?

(Cook, 2012).

Useful Links

| | |
|-------------------------------------|---|
| National: | <p>SOCAP Australia www.socap.org.au</p> <p>ACJI, Monash https://www.monash.edu/law/centres/acji</p> <p>Australian Consumer Law: http://www.consumerlaw.gov.au/content/Content.aspx?doc=home.htm</p> <p>Australian Small Business Commissioner: http://www.asbc.gov.au/node</p> |
| Australian Capital Territory | <p>http://www.ors.act.gov.au/community/fair_trading</p> |
| New South Wales | <p>http://www.fairtrading.nsw.gov.au/</p> <p>www.smallbusiness.nsw.gov.au</p> |
| Northern Territory | <p>http://www.consumeraffairs.nt.gov.au/Pages/default.aspx</p> <p>http://www.asbc.gov.au/resolving-disputes/services/NT</p> |
| Queensland | <p>http://www.qld.gov.au/law/fair-trading/</p> <p>http://www.asbc.gov.au/resolving-disputes/services/QLD</p> <p>https://www.business.qld.gov.au/business/running/customer-service/managing-customer-complaints</p> |
| South Australia | <p>http://www.cbs.sa.gov.au/wcm/</p> <p>www.sasbc.sa.gov.au</p> |
| Tasmania | <p>http://www.consumer.tas.gov.au/</p> <p>http://www.asbc.gov.au/resolving-disputes/services/TAS</p> |
| Victoria | <p>http://www.consumer.vic.gov.au/</p> <p>www.vsbv.vic.gov.au</p> |
| Western Australia | <p>http://www.commerce.wa.gov.au/consumer-protection</p> <p>http://www.commerce.wa.gov.au/sites/default/files/atoms/files/complaintsaguideforbusinesses.pdf</p> <p>www.smallbusiness.wa.gov.au/small-business-development-corporation-home-page/</p> |

Template 1. Example Letter of Acknowledgement

Sample letter of acknowledgement of receipt of complaints (adapted from a sample in Cook, 2012)

Dear [INSERT NAME],

We acknowledge receipt of your complaint following your recent purchase of [INSERT PRODUCT]. We are very sorry to hear that your experience of our products was below the standard expected.

We would like you to know that we treat all aspects of your complaint seriously, and that we are looking into the matters that you have raised.

We will respond to you with an explanation about what we find in relation to our investigations, within one week of today. In the meantime, please accept our sincere apologies for the poor impression which you have received.

Sincerely,

[NAME]

[POSITION, BUSINESS NAME]

Template 2. Example Complaints Handling Letter

Sample complaints handling letter

Dear [INSERT NAME],

In recent months our business has experienced a number of issues with the [INSERT PRODUCT].

You sent in a complaint recently, via [INSERT CONTACT, EG FACEBOOK]. Given the issues with the [PRODUCT], we have received a number of similar complaints and in light of this, we will also be posting the essence of this letter on Facebook for all of our customers and potential customers to see. This is being done to assure them that this problem has been recognised as causing them to have a below standard experience, and to ensure that all customers and potential customers understand that we are taking action to address the needs of those customers who have received faulty products and rectifying this situation (ensuring our supply quality).

Given that [INSERT ISSUE], we would be very glad to offer you an apology, as well as a new [PRODUCT] or a full refund for the [PRODUCT], depending on your preference.

We hope that these options address your needs and satisfy you of our commitment to our customers, in supplying excellent quality [PRODUCT]. Once again we apologise for any inconvenience caused by this issue, and look forward to welcoming you back to our store in the future.

Please contact myself on the contact details below to inform me as to whether this redress is acceptable to you, and if so, to choose whether you would like a replacement or refund.

Sincerely,

[INSERT NAME]

[INSERT POSITION, BUSINESS NAME]

Vulnerable Consumer Fact Sheet

Sometimes people are described as vulnerable consumers because of their characteristics or demographics, including:

- Age;
- Disability;
- Level of education; or
- Race/ethnicity (Harrison and Chalmers, 2013).

However, other recent research has shown that consumers might also be vulnerable due to temporary and short term situations which might include:

- Grief;
- Stress; or
- Fatigue (Harrison and Chalmers, 2013).

Further, there might be other factors which can contribute to vulnerability, such as:

- Poor consumers being influenced by materialism they see in the media;
- Lack of access to things like healthcare or retail facilities

And these things can make some consumers' lives particularly difficult. (Harrison and Chalmers, 2013).

Sometimes stressful situations themselves are the reason the consumer is using your goods or services (for example, using a lawyer in relation to a divorce) so it is particularly important that you are prepared for potentially vulnerable consumers.

Your obligations

Some service providers are obliged to comply with some guidelines and regulations in order to protect vulnerable consumers, for example, the banking and energy industries. It is important to check the relevant guidelines which might relate to your industry.

Assessment and assistance

It is important to have an assessment process to ensure that you know whether your consumer is vulnerable or not, and therefore whether they need extra help. This might mean asking a few more questions when you first start dealing with a customer, for example, about whether:

- They have any special needs;
- They need an interpreter; or
- They have any current assistance.

When assisting these customers, whether through your initial contact with them or after they have made a complaint, it is important to keep in mind that sometimes a small change can make a big difference for them. For example, sending a short follow-up email summarising key points of a meeting

Legal Framework

Legal Framework: Consumer Law

(Please note that most content has been sourced from Australian Consumer Law, Consumer Guarantees: A Guide for Businesses and Legal Practitioners (ACL, 2010))

Consumer Guarantees

When a business makes an agreement about goods and services the agreement will usually set out the cost, time frames and the nature of the services. A well written agreement can assist to ensure that everyone understands what is required and can reduce complaints. There are some matters that you are required by law to do when you make arrangements about goods and services and you cannot make an agreement not to do them. Sometimes, the law will only apply if the person or organisation who obtains the goods and services is a 'consumer'. The main areas of law that can apply in relation to complaints are set out below:

The Australian Consumer Law

The Australian Consumer Law, 2011 (ACL) aims to protect consumers and ensure fair trading across Australia. Business owners must consider the ACL and the duties it confers.

What constitutes Goods and Services?

All goods that are sold in trade and commerce and bought by a consumer are covered by the ACL. However there are some exceptions. This includes second-hand, leased or hired goods but does not include goods bought before the 1st of January 2011, from one-off sales from private sellers, at auctions where the auctioneer is an agent for the owner, when the good costs in excess of \$40,000 and is normally purchased for business purposes, for on-sell or re-supply, or is used as part of a business to produce something else or repair other goods or fixtures. Furthermore, goods are not "goods" for the purposes of the ACL if the buyer is not considered a "consumer" as per the ACL definitions.

The ACL covers all forms of service up to the cost of \$40,000 and in excess of \$40,000 if it is normally acquired for non-commercial use. If the service is used for commercial purposes and costs more than \$40,000, or was purchased before 1 January 2011, or is an insurance contract or transportation or storage of goods for a consumer's business, trade profession or occupation then the service is not covered by the ACL.

| 'Goods' under the ACL All goods sold in trade or commerce and bought by a consumer | |
|---|---|
| Including | Excluding |
| Goods bought after the 1st January 2011 | Goods bought before the 1st January 2011 |
| Second hand goods | Bought from private, one-off sellers (for example, from a garage sale) |
| Leased goods | Bought at an auction where the auctioneer is acting as an agent for the owner |
| Costing more than \$40,000 but normally used for personal or domestic use (for example, car or landscaping) | Costing more than \$40,000 when it would normally be purchased for business use (for example, machinery or farming equipment) |
| Where a 'consumer' is someone who buys goods up to \$40,000 (for example, a fridge, photocopier,...) | Goods that are bought by a person to on-sell or re-sell |
| A 'consumer' who buys a vehicle or trailer (no matter the cost) which is predominantly used to transport goods | If the buyer of the goods is not considered a 'consumer' under the definitions of the ACL |
| Hired goods | Goods used to produce something else or repair other goods or fixtures |

| 'Services' under the ACL All services sold in trade or commerce | |
|---|---|
| Including | Excluding |
| Services bought after the 1st of January 2011 | Services bought before the 1st of January 2011 |
| All forms of services up to \$40,000 | Services that cost more than \$40,000 and used for commercial purposes |
| Services in excess of \$40,000 if normally acquired for non-commercial use | Insurance contract |
| | Transportation or storage of goods for a consumer's business, trade profession or occupation |

The Nine Guarantees – A checklist

- | | |
|---|--|
| 1 | Goods are an acceptable quality when sold to the consumer, |
| 2 | Goods are reasonably fit for any purpose that was specified by either the consumer or the supplier, |
| 3 | Description of goods is accurate, |
| 4 | Goods will match any demonstration, model or description provided, |
| 5 | Any express warranties or extra promises made about the goods will be satisfied, |
| 6 | Clear title, unless the supplier alerted the consumer to the limited title, |
| 7 | Undisturbed possession, |
| 8 | Goods will remain (unless in certain circumstances) free from any securities or charges, and |
| 9 | The manufacturer or importers will take reasonable steps to provide spare parts and repair the goods for a reasonable time after the purchase. |

Services: Consumer Guarantees

Services must be provided with due care and skill (avoiding loss or damage) and must be completed within a reasonable time (which depends on the type of service and applies when there is no time set). Also, just as goods must be fit for purpose (see above), so too must services. This means the service must be reasonably fit for any purpose or achieving the result specified by the consumer, and any product resulting from the service is also fit for purpose. Note, this does not apply to architects and engineers.

Breach of a Consumer Guarantee

Goods and services a business owner sells must meet consumer guarantees (see listed above).

If the goods or services do not meet these guarantees the supplier has the choice of providing either a repair, replacement or refund. If there is a major failure the consumer may reject the goods and chose a refund, replacement or compensation for any drop in value if applicable.

Guarantee Signs

Guarantees stipulated under the ACL cannot be excluded by a supplier or contracted out of. Business owners must not display 'no refunds' signs. This includes 'no refund on sale items' or 'exchange or credit note only for return of sale items' signs. It is permissible though to have a sign that reads, 'no refunds will be given if you have simply changed your mind'. Civil and criminal penalties may apply.

Tip: Remember "The Three R's" → Repair, Replace, Refund

It is not currently mandatory to display a sign informing customers of their consumer guarantee rights, however suppliers may do so. The Commonwealth Minister responsible for administering the ACL can make this compulsory and specify the content, positioning, style and size of these signs as allowed for under. This may happen in the future and businesses will need to comply.

Limits

Goods and services that are not for personal, domestic or household purposes can be subject to limited guarantees. This means a supplier may limit remedies for faulty goods or services.

Recreational Service Providers and Excluding Guarantees

If the business provides recreational service they may limit their liability for death and personal injury but not property loss.

Compensation for Consequential Loss

Consequential loss is often financial but can also include loss of time or productivity along with other things. If a consumer suffers consequential loss due to problems with a service or goods, the consumer may claim for this loss from the supplier. The compensation should put the consumer in the place they would have been if there had not been a problem with the goods or services. The loss must be 'reasonably foreseeable'.

Manufacturers: Problems with Goods and Services

For a brief overview please see the section on the ACL above (paragraph 1). If the small business manufactures goods meaning:

- Putting goods together or making them,
- Has their name on the goods, or
- Imports the goods from an overseas maker that does not have an office in Australia,

... then the business may still be required to fix some problems with the goods as per Division 2 of Part 5-4 the ACL 2011. The manufacturer will be required to fix a problem/supply a remedy when the

goods are not of an acceptable quality, do not match the description or require repairs and spare parts. Manufacturers must honour any additional express warranties they made about the goods, for example a one year manufacturer's warranty. However with or without an express warranty the manufacturer must act in accordance to the consumer guarantees.

Note that when a manufacturer sells directly to consumers they are acting as suppliers in this context and not manufacturers.

References

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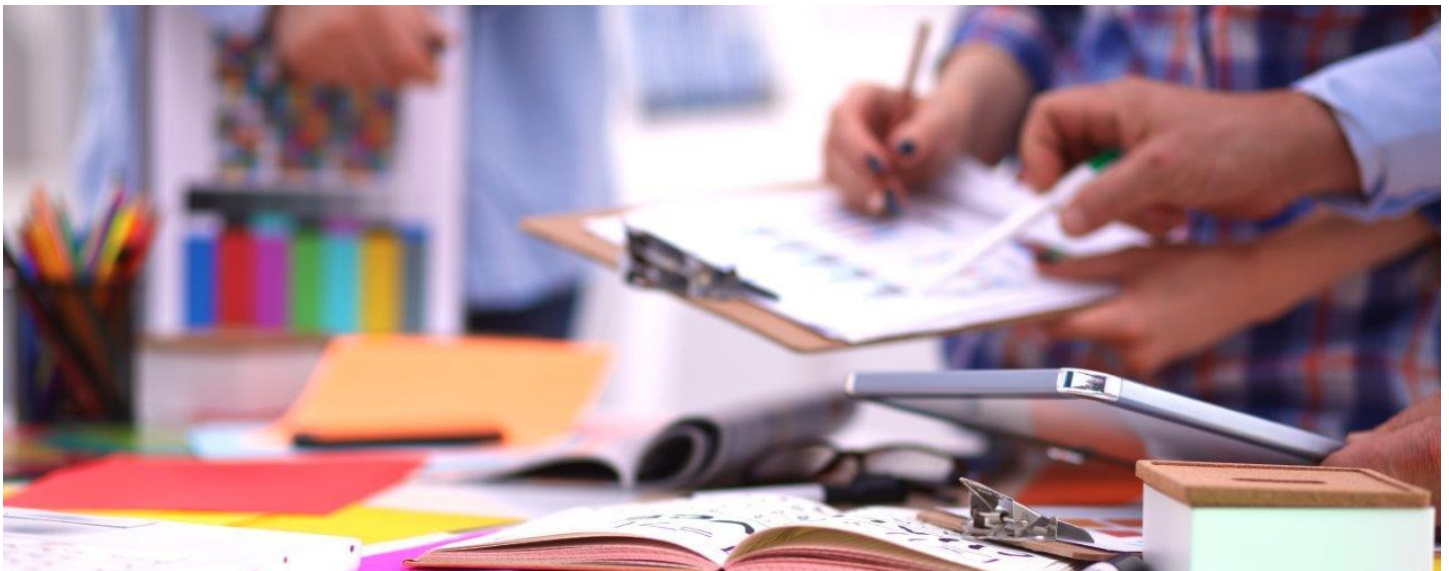
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