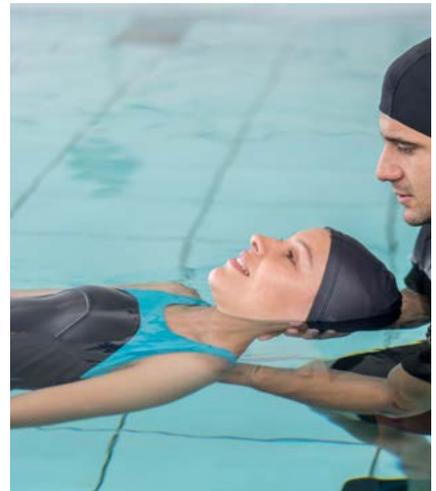


Your consumer rights

A guide for consumers with disability



This guide was developed by:

- Access Canberra, Australian Capital Territory
- Australian Competition and Consumer Commission
- Australian Securities and Investments Commission
- Consumer Affairs Victoria
- Consumer and Business Services South Australia
- Consumer, Building and Occupational Services, Tasmania
- New South Wales Fair Trading
- Northern Territory Consumer Affairs
- Queensland Office of Fair Trading
- Western Australia Department of Commerce, Consumer Protection

ISBN: 978 1 922145 82 6

© Commonwealth of Australia 2016

March 2016

With the exception of the Australian Consumer Law logo, photographs and images, this publication is licensed under a Creative Commons Attribution 3.0 Australia Licence.



Creative Commons Attribution 3.0 Australia Licence is a standard form license agreement that allows you to copy, distribute, transmit and adapt this publication provided that you attribute the work. A summary of the licence terms is available from www.creativecommons.org/licenses/by/3.0/au/deed.en. The full licence terms are available from www.creativecommons.org/licenses/by/3.0/au/legalcode.

The Commonwealth's preference is that you attribute this publication (and any material sourced from it) using the following wording: Source: Licensed from the Commonwealth of Australia under a Creative Commons Attribution 3.0 Australia Licence. The Commonwealth of Australia does not necessarily endorse the content of this publication.

Inquiries regarding this licence and any other use of this document are welcome at:

Manager

Communications

The Treasury

Langton Crescent Parkes ACT 2600

Email: medialiaison@treasury.gov.au

Contents

Who this guide is for	2
Your rights as a consumer	4
Be a smart shopper	6
Door-to-door and telephone selling	9
Contracts—important things to consider	12
Speak up if something goes wrong	14
Who can help?	16
Complaint letter template	18
Your right to a 'cooling-off' period	19

Who this guide is for

If you have a disability and you buy goods and services, this guide is for you.

It is designed to help you understand the rights that the law gives you as a consumer.

These rights apply when you buy goods or services for your own use. This includes general goods and services, disability related goods and services and items or services bought with National Disability Insurance Scheme (NDIS) or state/territory government funding.

This guide may also be useful for community organisations, support networks and carers.

The Australian Consumer Law

Under the Australian Consumer Law, if you buy something and there is a problem with it, you have the right to take it back and ask the business to fix the problem. The same applies if you pay for a service and it is not provided to an appropriate standard.

These rights are called 'consumer guarantees' and they apply to all goods and services bought online, over the phone, in a shop or through a service provider. They also apply if you buy something online from a seller which is based overseas, although it can be more difficult to enforce your rights in this circumstance.

You also have other rights that cover how businesses treat you and when and how businesses can contact you.

If you pay for something and it:

- isn't of acceptable quality
- isn't what you asked for, ordered or were told you would get, or
- is different to its description

you are legally entitled to a repair, replacement or refund.

Sometimes you may feel pressured to buy a product or service if a salesperson is pushy or approaches you at home. You also have legal rights if you are approached by a telephone or door-to-door salesperson.

This guide will assist you in understanding your consumer rights and making informed shopping choices.

The National Disability Insurance Scheme (NDIS)

If you are a participant in the NDIS and you have a problem with a disability related product or service you have paid for, you can use your rights under the Australian Consumer Law to get the problem fixed.

Under the NDIS you may be given what you need by the government, or you may be given money so that you can buy what you need.

Your plan may include things like:

- personal care to support you in your home or the community
- support to enable you to enjoy social and community interaction
- assistance with completing tasks of daily living, including help to improve your ability to do things independently
- supported employment services and information about employment programs that prepare you for work
- training to support family members to provide care that is reasonable in relation to your age and your family circumstances.

When you use your NDIS funding to buy these things, your consumer rights apply.

Who is a consumer?

You are a consumer every time you buy an item or service that costs no more than \$40 000 or is normally bought for personal use.

Some examples of things you might buy are:

Products

- food
- clothing
- electronic devices, such as a television, smartphone, tablet or computer
- hearing aids
- wheelchairs
- prostheses
- transfer hoists and lifts.

Services

- internet and mobile phone plans
- cooking and cleaning services
- physical therapy
- psychological or other emotional wellbeing services
- management of your disability funding
- home or vehicle modifications.

As a consumer, the Australian Consumer Law gives you automatic rights. Sellers must comply with this law.

Your rights as a consumer

When you are **looking to buy something** you have the right to:

- ask for what you want
- ask as many questions as you like
- ask for a better price
- take your time in making a decision
- be treated fairly
- be given all the important, correct information about the product or service
- speak up if things go wrong.

When you **buy products or services**, they come with automatic **consumer guarantees** set out under the Australian Consumer Law.

For example, businesses guarantee that the products they sell:

- are safe, durable with no faults
- look acceptable
- do all the things someone would normally expect them to do
- meet any extra promises made about performance, condition and quality, such as lifetime guarantees and money back offers.

Businesses guarantee that the services they provide will be:

- provided with acceptable care and skill or technical knowledge, and take all necessary steps to avoid loss and damage
- fit for the purpose or give the results that you and the business had agreed to
- delivered within a reasonable time when there is no agreed end date.

You can use your rights under the consumer guarantees to make sure you get what you paid for.

If you have paid for a **product** and :

- it is faulty
- it is unsafe
- it does not match the description or demonstration model
- it does not do what you asked for it to do
- it does not do what the seller said it would do, or
- you do not get it on time

speak up—you have the right to a remedy. If it's a minor problem you can ask the seller to fix it. If it is a major problem, can't be fixed or can't be fixed in a reasonable time, you have the right to ask for your money back or a replacement.

Example 1

You buy a laptop computer from your local store. When you get home, you find the screen is broken and doesn't work. You have the right to take it back to where you bought it from and get a repair, replacement or refund.

If you have paid for a **service** and:

- it is not done properly, or
- it is not supplied on time

speak up—you have the right to have the problem fixed, or to cancel the contract and get your money back if the problem is not fixed in a reasonable time.

Example 2

You hire a tradesman to paint your house. He only paints half the house. You have a right to ask him to complete the job within a reasonable time. If he refuses or fails to complete the job in a reasonable time, you can engage someone else to finish it and if it costs more claim the extra cost from the original painter.

These rights apply whether you buy something:

- from a store
- online
- from a service provider
- from someone who comes to your door
- from someone who calls you on the phone.

It is OK to say no

When you are looking at products or services, or even are approached at your own home, you may occasionally find yourself in a situation that feels difficult to back away from.

Remember, no matter what the circumstances are, you don't have to agree to buy anything or sign a contract.

Take your time and don't be rushed into buying or signing anything you aren't comfortable with.

If you feel pressured to agree to something on the spot, tell them you're not interested or that you will take some time to think about it.

Do not give away your personal details such as address, phone number, bank details, credit card details or driver licence number to anyone you do not know and trust.

Be a smart shopper

Remember it's **your money**.

You should always do your research and find out what choices you have.

Before you buy something:

- Think carefully about the item and what you want it to do.
For example, if you are buying a mobile phone, you should think about how you will use it. Will you mostly make phone calls, send text messages or use the internet?
- Compare the offer you are looking at with others, and choose what's right for you.
For example, if you are buying a television, are some cheaper than others? Is there a phone number or someone to speak to after you buy? What are the differences in quality and features?
- Check the item carefully. For example, look for dents, rips or loose parts.
- Be aware that sometimes businesses make claims that are not true.
- Find out as much as you can about the business selling you something. Ask around, talk to other customers if you can, talk to your friends and family, search online and look at independent product reviews.
- If you are shopping online, find out who you are dealing with. If it is an Australian company, you are in a much better position to sort out a problem if something goes wrong. Also check the payment method and only use a secure payment service—look for a URL starting with 'https' and a closed padlock symbol, or a payment provider such as PayPal.
- **Take your time—do not rush your decision.**
- If you need help, talk to someone you trust such as a family member, friend, a community organisation, advocate or other support network.

Example 3

Sarah has an eye disease that causes progressive loss to her central vision. She visits a specialist low vision agency for a low vision assessment and is given a prescription for some magnification equipment to assist her when reading.

She is shown a range of optical magnifiers and reading machines that may suit her reading needs.

Sarah is overwhelmed by all the information and doesn't feel ready to make a decision about which product(s) will suit her reading needs best.

What can Sarah do?

Before making a decision, Sarah can:

- explain that she needs more time to think about her options
- ask more questions to find out which devices best meet her needs
- talk to friends and family who may have used some of these options and ask them about their experiences.
- request for a trial period to test the product(s)

She can then trial the products that she thinks are most likely to meet her needs, knowing that she has considered the various alternatives thoroughly.

If she doesn't like a product, she can return it within the trial period and explore other options.

Warranties and extended warranties

A warranty is a promise from the manufacturer or person you bought from.

Warranties can include a promise to fix or replace what you bought or provide a refund if things go wrong. Warranties often have a time limit.

A business might ask if you want to pay more so that you are protected by the warranty for even longer—this is known as an 'extended warranty'.

Extending the life of your warranty may not give you any more protection than what you already get for free under the Australian Consumer Law.

Don't pay for an extended warranty unless:

- the business or salesperson can clearly explain the extra protection you will get
- the extra protection is something you need
- you think the protection offered is worth the extra money.

Example 4

Nigel is looking to buy a new vacuum cleaner. He does his research, compares his options, and then decides on a make and model.

When Nigel visits the store, the salesperson explains that the vacuum cleaner comes with a one year manufacturer's warranty. This means that the manufacturer promises to fix any problems that may arise during the first year after purchase, without charge.

The salesperson invites Nigel to pay an extra fee for an 'extended warranty', which would add another two years to the life of the warranty.

Given the cost of the vacuum cleaner, Nigel thinks it should last more than a year. Nigel decides that he does not need the extra protection of an extended warranty, and that he will exercise his automatic consumer guarantee rights if something goes wrong with the vacuum cleaner after the first year.

Example 5

Peter has a hearing impairment and is advised by his doctor that he would benefit from some hearing aids. Peter visits a hearing clinic and chooses two hearing aids and pays for them in full at the time of fitting.

After six months the hearing aids seem weaker and less effective, even after being calibrated. Peter returns to the clinic which checks the devices and decides to send them off to the manufacturer for a thorough clean and check. As the devices are still under warranty Peter is not charged for this service.

Six months later, one of the hearing aids seems weaker again so Peter arranges for a check with the clinic. This time he is told he has to pay for this service, as the warranty has expired.

Peter talks to his local consumer protection agency and is advised that products sold by businesses come with an automatic guarantee that they are of acceptable quality, and as such he may still have the right to a free repair or replacement if the hearing aid isn't of acceptable quality. He explains this to the clinic and gets the hearing aid fixed at no cost.

Keep all the paperwork

You may be asked for proof of purchase if you make a complaint about something you paid for. Proof of purchase can be a receipt, a bank or credit card statement. You have the right to ask for a receipt for anything you buy or pay for.

Whenever you buy something, keep a copy of the receipts, warranties and anything you sign. Make sure you keep any paperwork in a safe place where you can find it again.

Door-to-door and telephone selling

The Australian Consumer Law also covers door-to-door and telephone selling and how businesses must treat the people they contact.

If a salesperson comes to your door or calls you on the telephone and tries to sell you something:

- It is OK to say no—you do **not** have to agree to buy anything or sign a contract, no matter what
- You can ask a door-to-door salesperson to **leave**—if you do, the law says they must leave.

If you don't want people knocking on your door trying to sell you things put up a *Do Not Knock* sign. Here is a sample sign you can copy or print out—<http://www.accc.gov.au/publications/door-to-door-do-not-knock-sign>. You can also get a copy from your local consumer protection agency.

If you decide to buy a product or service valued at more than \$100 from a door-to-door salesperson:

- They must give you all the details in writing.
- They **cannot** ask you to pay any money in the first 10 business days after they provide you with a contract in writing
- It is OK to change your mind—if you decide later that the offer is not for you, you have 10 business days to change your mind and stop the contract without penalty. The business must give you a form you can use to tell them you have changed your mind.
- If the product or service costs more than \$500, they cannot provide it to you for 10 business days.

These 10 days are called a 'cooling-off period'.

If you are not sure about something, talk to someone you trust or contact your local consumer protection agency.

Example 6

Max is approached at his home by a door-to-door salesperson and is invited to buy some cleaning products. The products look OK, and the salesperson is quite friendly, so Max decides to buy some at a total cost of \$120.

The next day, Max changes his mind when he finds out that he can buy similar products from the supermarket at a much lower price.

What can Max do?

As the sale was made through a door-to-door salesperson, Max has a legal right to a cooling-off period of 10 business days. This means he can change his mind without having to give a reason.

Max can:

- Call the phone number listed on the sale agreement and explain that he would like to end the contract. He will not be invoiced for the \$120.
- Send the business a written notice explaining that he would like to end the contract using the notice the business gave him as part of the contract. If Max needs help he can contact his local consumer protection agency to seek their advice.

Example 7

Kristen has impaired vision, reads braille and uses a braille note taker with her home computer to access information online.

Kristen is approached at her own home by a door-to-door salesperson who sells braille note takers. Kristen already has one and does not want a new one. But she doesn't want to be rude and turn the salesperson away.

After about 10 minutes of having the various products demonstrated to her, Kristen tells the salesperson that she does not wish to buy anything. The salesperson doesn't like this. He tells Kristen that as he has spent a long time talking to her, she must now buy something. Kristen feels pressured and agrees to buy one of the products.

Kristen later regrets saying yes as she cannot afford to pay for a new device.

What can Kristen do?

Under the Australian Consumer Law, Kristen has 10 business days to change her mind and cancel the contract.

Kristen can:

- Contact the business and cancel the contract without having to give a reason. She may also wish to make a complaint about the salesperson.
- Contact her local consumer protection agency to make a complaint about the business and the salesperson.

Example 8

Cassy receives a phone call from a telephone salesperson, who offers to give her a cheaper internet and telephone package than her existing plan.

The salesperson asks Cassy to go and get a recent bill, so she can tell them how often she uses the internet and how much she is currently paying per month. Cassy doesn't want to move to a new service provider without first doing her research and taking some time to think about it. She doesn't want to make a decision on the spot. She also gets suspicious when the caller also asks for her name, address and bank details.

What can Cassy do?

Cassy can:

- Say no—she does not have to provide her personal details to anyone she doesn't know and trust.
- Explain that she does not want to make a decision without some time to think about it. She can ask the salesperson to send her information about their services and prices so she can think about it. If they cannot do this, she should reject their offer and end the call.
- End the call at any time—if she is not interested in switching to a new internet/telephone service provider, she can say so and end the call.

Contracts—important things to consider

What is a contract?

- When two people make a promise to do something for each other, usually a product or service in exchange for payment, this is called a **contract**, or a **service agreement**.
- Some contracts are spoken.
- Some contracts must be in writing.
- A contract is a legally binding agreement.

For example, you might have a contract for someone to clean your house or deliver your meals.

When you sign a contract with a business, they are agreeing to do certain things for you. But you are also agreeing to do certain things for them, such as paying certain amounts of money at certain times—make sure you know what they are and what this means for you before you sign anything.

If one side fails to honour their obligations in a contract, there may be consequences.

What should you do **before you sign** a contract or service agreement?

- Read it carefully.
- Make sure you understand what it means for you and the business.
 - What does the contract say the business will do for you?
 - What does the contract say you have to do?
 - How long does the contract last?
 - How and when do you make payments under the contract?
 - Can you end the contract early if your circumstances change? Will you have to pay a fee to do this?
- Keep a copy of the contract or receipt in a safe place where you can find it again.
- **Take your time** and don't be rushed into signing anything you haven't read properly or don't fully understand.
- **Don't** sign a contract if there are areas to be completed that have been left blank.
- You can ask for any paperwork in a different format if you need to.
- If you are not sure about something, ask for help from someone you trust.
- Only sign the contract when you understand it and agree with it.

Example 9

Jayde is looking for a cleaner service, so she approaches a few domestic cleaning suppliers for a quote.

Jayde knows she is going to move to a new home on the other side of the city at some stage during the next year, so she is looking for a service that can be terminated when she moves house.

She gets two quotes along with their standard supplier agreements. Jayde reads the terms and conditions for each carefully. One supplier insists that she signs up to a one year contract, whilst the other supplier offers an ongoing service that can be cancelled at any time with two weeks of notice.

Jayde decides to engage the second supplier, to ensure that she won't have any problems cancelling the service when she eventually moves house.

Speak up if something goes wrong

When you buy something or pay for a service, if there is a problem:

- Contact the business or service provider by phone or in person, explain what the problem is, and how you would like it to be resolved.
- Make a note of the name of the person you spoke to, the dates you spoke to them and what they said.
- If the person you speak to will not help you, contact the business in writing (for example by email, an online form or a letter). Provide a brief history; explain what the problem is, and how you would like it to be resolved.

The business may:

- ask you to prove that you bought the good or service from them. You can do this by showing them a receipt or bank statement
- talk to you about whether the problem can be fixed or not.

If something goes wrong with a good or service, one of the consumer guarantees may not have been met. If this is the case, you will have a right to a repair, replacement or refund. How the business must respond depends on whether the failure is big or small.

Products:

- If it's a small failure and can be easily fixed, the business can repair the product for free.
- If it's a big failure or can't be fixed, you can choose a replacement or get your money back.

Services:

- If it's a small failure, you can ask the business to fix the problem for free. And if they do not fix it or do not fix it in a reasonable time you can get someone else to fix it and claim the cost from the business.
- If it's a big failure, you can cancel the service contract or get some or all of your money back (depending on the circumstances).

You have the right to be told what is happening and be given some idea of how long it might take to fix the failure.

If you are unsure or have been waiting a while you can contact the business again.

If the business does not agree to help you or you feel unsure about talking to them, seek advice from your local state or territory consumer protection agency.

Example 10

Kylie wants to buy a television and finds a good deal online. She checks the contact details of the website and confirms that it is based in Australia. She then conducts a quick search for online reviews to find out about experiences from other customers. Then she checks if the website has a returns policy that suits her needs, before finally placing her order and paying by credit card. She orders a television with a 75 inch screen.

A week later Kylie receives a large package by courier. She opens it to discover that she has been sent a television with a 55 inch screen—smaller than the screen she ordered.

What can Kylie do?

Kylie has the right to have the problem fixed. She has paid for a television with a 75 inch screen.

She can:

- Telephone the customer service number, explain the problem and ask for a television with the correct screen size to be sent to her.
- Ask the business to arrange a pick up courier for the 55 inch screen television that she did not order. If the business cannot arrange this and asks her to arrange the return delivery, she can ask to be reimbursed for the cost of returning the television.

Example 11

Tim uses a wheelchair and has just bought a new home. He is looking to install a concrete ramp and pathway from his front door to the street footpath.

After seeking a few quotes from potential suppliers, Tim selects the offer that best suits his needs. He has explained to the supplier that he needs the ramp and the path to provide him with full wheelchair access to the street.

The ramp and path are installed by the concrete paver on a day when Tim is at work. When he arrives home he notices that the newly paved pathway in his front garden ends a metre short of the street footpath, making it difficult for his wheelchair to cross.

What can Tim do?

As Tim explained his needs clearly to the supplier and they agreed to accommodate them, he has the right to have the problem fixed.

Tim can:

- Contact the supplier and explain the problem, reminding them that he had clearly explained his needs before they commenced the job, and ask for the problem to be fixed at no charge within a reasonable time.
- If the supplier refuses to fix the problem or does not fix it in a reasonable time, Tim can arrange for someone else to complete the path and recover the cost from the original supplier.

Who can help?

For more information about your consumer rights, contact your local state/territory consumer protection agency, speak to your support networks or speak to someone you trust.

State and territory consumer protection agencies

Australian Capital Territory

Access Canberra

Ph: 13 2281

www.act.gov.au/accessCBR

New South Wales

NSW Fair Trading

Ph: 13 3220

www.fairtrading.nsw.gov.au

Northern Territory

Consumer Affairs

Ph: 1800 019 319

www.consumeraffairs.nt.gov.au

Queensland

Office of Fair Trading

Ph: 13 7468

www.qld.gov.au/fairtrading

South Australia

Consumer and Business Services

Ph: 13 1882

www.cbs.sa.gov.au

Tasmania

Consumer Affairs and Fair Trading

Ph: 1300 654 499

www.consumer.tas.gov.au

Victoria

Consumer Affairs Victoria

Ph: 1300 558 181

www.consumer.vic.gov.au

Western Australia

Department of Commerce

Ph: 1300 304 054

www.commerce.wa.gov.au

Get help buying products and services as part of the NDIS

If you are an NDIS participant, an NDIS representative can help you through the process of buying products and services with your NDIS funding.

If you have any questions call 1800 800 110 or visit www.ndis.gov.au for more information.

If you are not an NDIS participant, you can find out if you meet the access requirements by visiting the website—<http://www.ndis.gov.au/people-disability/access-requirements>—or calling 1800 800 110.

More information

You can find out more information about your consumer rights, including a copy of this guide for you to download and print on our website at: www.accc.gov.au/disabilityresources.

Australian Competition and Consumer Commission (ACCC)

1300 302 502

www.accc.gov.au

Complaint letter template

You can use the template below to get started writing a complaint letter—you can change it to fit your particular problem.

<Your name>
<Your address>
<Your telephone number/s>
<Your email address>
<Today's date>
<Contact/seller's name>
<Position title>
<Business name>
<Business address>

Dear <contact name>

Re: <Subject of your letter>

State that you have a problem with goods or services bought from the business at a particular location and date and that you want the problem fixed.

Explain the key details of the problem including when you discovered it and any other steps you've already taken to get it fixed, such as a telephone call or a visit to the store. Note who you spoke to and any results of your efforts.

State the steps you want the business to take to fix the problem—for example, you want the business or service provider to either:

- refund your money (or provide a credit note)
- repair the product
- replace the product
- fix the work (or pay for the work to be fixed by another service provider).

State that you expect to hear from the business with a solution by [insert date or within 10 days].

Describe what you intend to do if the business fails to fix the problem—such as making a formal complaint to the consumer protection agency in your state or territory.

Indicate that you have attached or enclosed copies of any supporting documents, such as:

- photos of problems with the product or service
- prior correspondence
- receipts (or other proof of purchase)
- warranties or guarantees
- contracts
- order forms.

Note: send copies, not original documents. You may need these documents later if you take your complaint further.

If possible, get evidence such as an independent technical report to support your claim.

Include details of when and how you can be contacted.

Yours sincerely

<Your signature>

<Your name (printed)>

Your right to a 'cooling-off' period

If you are contacted by a telephone or door-to-door salesperson, and you sign an agreement to pay for a product or service, you have the right to cancel this agreement within 10 business days.

Below is a cancellation notice template. You can use this outline to get started writing a cancellation notice to a product or service you signed up to through a telephone or door-to-door salesperson—you can change it to fit your particular problem.

Supplier
Name
Address
Email address (if any)
Fax number (if any)
Details of goods or services supplied under the agreement
Cost of goods or services
Date of agreement
Transaction number (if any)
Your details
Name
Address
Email address (if any)

I wish to cancel this agreement

Signature

Date:

Note: you must either return to the supplier any goods supplied under the agreement or arrange for the goods to be collected.