

CONSUMER AFFAIRS COMPLIANCE AND ENFORCEMENT POLICY

INTRODUCTION

The purpose of this policy is to set out the principles adopted by Consumer Affairs Northern Territory in making decisions about effective resource use to ensure compliance with the legislation administered.

Consumer Affairs Northern Territory supports the Commissioner of Consumer Affairs, the Commissioner of Tenancies, Commissioner of Business Tenancies and the Controller of Prices to fulfil their statutory obligations.

The legislative framework for consumer affairs in the Northern Territory embraces a number of Acts and Regulations governing a wide range of business and other activities affecting consumers. The Acts can be viewed at consumeraffairs.nt.gov.au.

The principles behind this compliance and enforcement policy are:

1. That any enforcement action is proportionate to the consumer detriment and the seriousness of the breach;
2. Matters will be assessed in a consistent manner in accordance with the policy;
3. The process will be as transparent as possible so that business and consumers know what is expected of them and what they can expect from Consumer Affairs; and
4. The matters selected for action will reflect any new and emerging issues and Consumer Affairs' priorities.

PRIORITIES AND GUIDELINES

The priority of Consumer Affairs is to maintain a high level of consumer protection without over regulating business activity. Consumer Affairs' policy is to educate traders and, in the first instance, provide warning and show cause letters to bring traders and landlords in line with the legislation.

Each situation will be assessed against Consumer Affairs enforcement and compliance priorities and guidelines ensuring we achieve our goal to promote and regulate responsible business conduct through administration of a regulatory system that protects consumer interests.

Consumer Affairs must manage its compliance and enforcement work within its allocated resources as no organisation has unlimited resources.

Consumer Affairs will focus on matters identified as being of major strategic significance and will seek to utilise its resources to achieve the highest level of compliance throughout the Northern Territory.

In assessing these priorities and focusing its resources, it undertakes a risk assessment of the areas acknowledged as most vulnerable within the Northern Territory.

The small population, limited number of traders, remoteness of many Territorians and the large Indigenous population are all factors affecting the application of Consumer Affairs' resources. In recognising that Indigenous Territorians are among the most vulnerable consumers in Australia, Consumer Affairs utilises its strong networks throughout regional and remote areas of the Northern Territory to both educate Indigenous consumers and to monitor trader activity.

Consumer Affairs acknowledges that many risks to consumers can be minimised by education of both traders and consumers.

The media is an effective method to quickly and effectively reach consumers and media releases and warnings are very strong compliance tools to alert consumers and traders of current issues and the prevalence of rogue traders. "Naming and shaming" in the Territory is an extremely effective tool as a large percentage of the population can be reached through a single piece of print media.

The following guidelines and principles are taken into account in regard to each compliance and enforcement action:

- whether the matter falls within the jurisdiction of the Northern Territory;
- the level of consumer detriment with regard to the vulnerability of the affected consumer and or consumers and the manner in which they may have been targeted by the trader;
- the culpability of the alleged offender;
- any special circumstances surrounding the complaint;
- the likelihood of any action succeeding having regard to the sufficiency and quality of the evidence; and
- the trader's history both in the Northern Territory and interstate.

COMPLIANCE STRATEGIES AND PROCEDURES

Consumer Affairs utilises the following strategies and procedures to ensure compliance:

Education

It is essential that consumers are aware of their rights and responsibilities under consumer protection legislation. Similarly, traders have an obligation to understand the requirements of the relevant legislation (Acts) when operating within the Northern Territory whether they are based in the NT, interstate, overseas or operating in an itinerant manner.

Consumer Affairs utilises its website, publications, radio, print and television media as well as trader and consumer education visits to encourage compliance by traders and to inform consumers of their rights.

Monitoring and Inspections

The Commissioner appoints Authorised Officers in accordance with relevant legislation which provides these officers with a range of powers including: the ability to enter premises, copy and seize documents and require answers to questions or the provision of documents.

Much of the information received regarding non-compliant traders is obtained by the Consumer Affairs call centre, however Compliance staff also initiate inspections and audits of traders across the Territory, inspecting goods and educating traders about their rights and responsibilities.

Self Regulation

Consumer Affairs' strong education focus seeks to ensure that traders and industry groups are aware of their responsibilities under the legislation administered.

Through these educational activities and cooperative working arrangements, many industry bodies assist in self regulation of their members to ensure honesty and adherence to legislative requirements.

Consumer Affairs has a formal agreement with the Motor Trades Association of the Northern Territory whereby the Association assists consumers with complaints about its members. These conciliations are then reported to Consumer Affairs. This arrangement has been in place for many years and provides strong consumer protection from an industry body seeking to maintain a high level of trading integrity and honesty within its membership.

Information Sharing

Consumer Affairs shares information with other consumer protection agencies and other government and business bodies, consistent with the Consumer Affairs Privacy Policy and privacy principles. This enables action where 'rogue' traders are operating nationally or across state and territory borders.

Enforcement

Should Consumer Affairs consider that a trader or landlord is not appropriately complying with laws and a change in behaviour is not evident, enforcement action may be considered appropriate.

Enforcement is the formal process of obtaining compliance with legislative requirements. The powers available to Consumer Affairs Northern Territory include:

- Requiring a response to a “Notice of requirement to furnish information” (section 8 notice),
- Issuing an infringement notice,
- Applying to the courts for an injunction,
- Intervening in or defending proceedings on behalf of a consumer or class of consumers in certain circumstances,
- Issuing a public warning, and
- Instituting criminal or civil proceedings.

The level at which enforcement action will be undertaken will depend on a variety of issues with the highest level of action being at the sole discretion of The Commissioner.

Accountability

Consumer Affairs’ enforcement action is subject to review by the courts and the Ombudsman.