

What should I do if I am not happy with the conduct of a trader?

This fact sheet should be read in conjunction with our fact sheets entitled:

- *Taking your matter to VCAT*
- *Consumer Law on the Web – a Research Guide*

Use this factsheet if you are not happy with the goods or services supplied by a trader and you want to:

- **get the purchase price for the goods or services refunded; or**
- **dispute that you owe the trader money for the goods or services.**

How are consumers in Victoria protected?

Different laws exist in Victoria to protect consumers depending on the type of transaction the consumer has entered into. One of the most important pieces of consumer protection legislation in Victoria is the *Fair Trading Act 1999 (Vic)* (“**the FTA**”). The FTA is designed to protect consumers when they enter into contracts with suppliers of goods and services in Victoria.

The FTA is broad and includes prohibitions against:

- unfair contract terms;
- misleading and deceptive conduct; and
- unconscionable conduct.

It also includes provisions which:

- incorporate implied conditions and warranties into consumer contracts – see *our fact sheet entitled Implied Conditions & Warranties*; and
- regulate contact and non-contact sales (eg. door to door and telephone marketing sales) – see *our fact sheet entitled Door to Door Sales – your rights for more information*.

If you have purchased goods or services from a supplier or possible supplier of goods or services in Victoria and the goods or services are for personal, domestic or household purposes, the above provisions may apply to you.

Warning: This fact sheet is for information only and should not be relied upon as legal advice. This information applies only in Victoria, Australia and was updated 31 May 2008.



What should I do if I am not happy with the conduct of a trader?

This fact sheet should be read in conjunction with our fact sheets entitled:

- *Taking your matter to VCAT*
- *Consumer Law on the Web – a Research Guide*

It is also important to remember that some consumer transactions may be covered by the FTA and/or another piece of consumer protection legislation or general law. For instance, if you have bought a car, you may also have additional rights and protections under the *Motor Car Traders Act (Vic) 1985*. Similarly credit transactions, domestic building transactions and residential leases are each regulated by specific consumer protection legislation.

IT IS IMPORTANT TO SEEK LEGAL ADVICE IN RELATION TO YOUR RIGHTS

What a trader should not do

If you believe that a trader has done any of the things described below and you have suffered loss as a result, you should seek legal advice regarding your rights. Refer to the contact section at the end of this fact sheet for a list of organisations that offer free advice.

A trader may have breached the law if it has done any of the following:

- made a false representation about the product or service that they have supplied;
- sold you a faulty product;
- sold you a product that is different to the sample you were shown or the description you were provided with before you agreed to purchase the goods;
- supplied you with services that were not rendered with due care and skill;
- supplied you with goods or services that are not fit for the purpose that you purchased them for and you made this purpose known to the trader prior to entering into the sale contract;
- supplied you with services that do not correspond in nature and quality with the services that were demonstrated to you before you entered into the service contract; and
- supplied you with goods that the trader did not have a right to supply;
- you have entered into a contract for goods and services under which you have very few rights and significant obligations.

Warning: This fact sheet is for information only and should not be relied upon as legal advice. This information applies only in Victoria, Australia and was updated 31 May 2008.



What should I do if I am not happy with the conduct of a trader?

This fact sheet should be read in conjunction with our fact sheets entitled:

- *Taking your matter to VCAT*
- *Consumer Law on the Web – a Research Guide*

Should I contact the trader?

Complaining directly to the trader in writing can be the quickest way to resolve your complaint. See our sample letter below.

When you write to the trader, address the letter to the manager and state what the problem is and how you want it resolved. Always keep a copy of any letters you send as this could help you later if you need to show that you have attempted to resolve the matter with the trader first.

If there are a number of companies involved, for example a finance company and a trader, you should send the complaint to one, with a copy to the other.

If a trader has started legal action against you, get advice about defending the action as soon as possible and before you put in a written complaint. You may contact any community legal centre (such as Consumer Action Law Centre) for advice.

What do I do if I get no response or an unsatisfactory response?

If the trader fails to respond to your complaint or its response is unsatisfactory, you may take your dispute to either an External Industry Dispute Resolution Scheme or to the Victorian Civil & Administrative Tribunal. See our fact sheets entitled: *Alternative Dispute Resolution Schemes* and *Taking Your Dispute to VCAT*.

Warning: This fact sheet is for information only and should not be relied upon as legal advice. This information applies only in Victoria, Australia and was updated 31 May 2008.



What should I do if I am not happy with the conduct of a trader?

This fact sheet should be read in conjunction with our fact sheets entitled:

- *Taking your matter to VCAT*
- *Consumer Law on the Web – a Research Guide*

Sample Letter

Your Name
Your Address

Name of Trader

Date

Dear Sir or Madam,

Re: *(Name of Trader and description of goods or services bought)*

I am writing to advise you of my concerns regarding your conduct in the supply of *(description of goods or services bought)*.

I consider the following actions used by you to be in breach of the Fair Trading Act 1999 (Vic): *List the actions or statements that you believe to be unfair or illegal. Include dates events took place and the names of staff members that you dealt with if possible.*

These actions have caused me *(describe the loss suffered)* and I require that you *(state what you want the trader to do, eg. refund you monies paid, provide written confirmation that you are no longer liable for the debt or performance of the contract)*. Should you fail to do this within fourteen (14) days, I shall *(state the action that you will take to resolve your complaint, eg. issue proceedings against you)*.

Regards,
Your Name

Warning: This fact sheet is for information only and should not be relied upon as legal advice. This information applies only in Victoria, Australia and was updated 31 May 2008.