



Consumer Complaints

If you have a fair trading dispute with a trader, the Office of Consumer and Business Affairs (OCBA) can assist in resolving it. Our advisory service will inform you of your rights and obligations and those of the trader. We will also advise you about how to negotiate with the trader to fix the problem yourself. These services are free of charge.

First, you should try to resolve the problem by talking directly to the trader. Explain the problem and offer solutions that will satisfy you. If you are not successful, put the problem and your solutions in writing to the trader (addressed to the manager) and ask for a written response within a reasonable time limit. You must give the trader a reasonable opportunity to fix the problem.

Complaints OCBA can help you with

We mainly handle disputes concerning purchases of consumer products and services (e.g. motor vehicles, domestic building services, household goods, credit and personal services such as travel arrangements or Internet services).

Complaints OCBA are unable to help you with

OCBA generally will not handle a complaint where:

- A consumer has not made a reasonable attempt to resolve the matter with the trader first
- A dispute exists between two traders
- The complaint is of a kind handled under the law by other authorities (e.g. health, tax, investments)
- Goods or services are bought for business purposes
- Legal action has commenced
- Goods are not normally used for personal, domestic or household use (e.g. a tractor)
- Goods and services are advertised and purchased outside South Australia.

Lodging your complaint with OCBA

If you have been unsuccessful in resolving the problem with the trader, then you should telephone or write to OCBA, explain the problem and what you have done about it. If we can help, we will send a 'Request for Assistance' form for you to complete and return to us along with copies of the relevant documents (e.g. receipts and contracts).

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Steps to try...

Talk to the trader

Remember to:

- Quote details from the documentation e.g. receipt, order form or contracts
- Explain the problem and suggest a solution
- Be calm and courteous, but be firm
- Keep a record of conversations (who, date and time).



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Write to the trader

Include:

- Specific details of the problem
- Your name and contact details
- Invoice and account numbers
- A copy (keep the original) of receipts, order forms and other proof of purchase
- A copy (keep the original) of an independent expert report (where appropriate).

(Sample letters of complaint are available from our office and website, www.ocba.sa.gov.au)

Remember to:

- Write promptly as delays can affect your rights
- Be clear about the solution you want
- Set a deadline for a response (e.g. two weeks)
- Keep a copy of your letter.



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Contact OCBA to lodge your complaint

If you are unable to resolve the dispute yourself, we are able to assist you through our dispute resolution process.

Office of Consumer and Business Affairs

Level 4, Chesser House,
91-97 Grenfell Street
Adelaide SA 5000
Phone (08) 8204 9777

Regional Offices

30 Kay Avenue
Berri SA 5343

11 Helen Street
Mount Gambier SA 5290

9 Mackay Street
Port Augusta SA 5700

Telephone **131 882**

Dispute resolution process

Our dispute resolution or conciliation process involves a member of our staff (case officer) acting as an objective third party in resolving the problem between you and the trader. We provide independent advice in an attempt to reach a solution acceptable to both parties.

Traders and consumers must be willing to participate in negotiations to reach a solution. While most disputes handled by our Office are resolved satisfactorily, some are not. We cannot force anyone to agree to a settlement. Only the Courts can impose legally binding decisions.

The diagram on the right outlines the dispute resolution process showing you what to expect in resolving your dispute. The process and timing may vary depending on your needs and the complexity of your case. However, we will provide you with regular updates of the progress of the negotiations.

Your role in the process

When you deal with the trader, try to remain calm and keep an open mind when considering alternative solutions. During the conciliation process you may have to write to the trader again, arrange inspections and contact other organisations to support your case. In certain cases, you may need to obtain independent reports to support your case and you may have to pay for these.

Even if your dispute cannot be resolved, the reports, letters and information obtained during the conciliation process will be useful as supporting evidence if the matter proceeds to Court.

Check that your solutions are realistic - discuss them with your case officer. Remember that the trader also has to agree to any solution you propose, before the matter can be resolved.

When the dispute cannot be resolved

Your case officer will offer advice and other options if you want to take the dispute further. If you decide on Court action, it is recommended that you first seek independent legal advice. While we can provide you with advice about fair trading issues, we are not able to provide legal advice and assistance.

Any breach of fair trading law detected during conciliation will be dealt with by OCBA separately and will not generally affect the outcome of your dispute.

Confidentiality and freedom of information

Information gathered during the conciliation process is strictly confidential. However, some information must be provided to the trader in order to negotiate a solution. If you do not want certain information to be given to the trader, you should make this clear to your case officer.

In most cases, we cannot release your documents to others under Freedom of Information legislation because of the confidentiality obligations on our officers imposed by the *Fair Trading Act 1987*. However, your documents may be accessed by other law enforcement authorities or by order of a Court. If you wish to use your case file in a court action you will need to ask the Court to subpoena the file.

Disadvantaged consumers

We will vary the conciliation process to accommodate the needs of the parties including non-English speaking people, older people, people with a physical disability, people with an intellectual disability or people with mental illness.

Special assistance can be arranged to ensure all customers can access our services in a fair and equitable way.

Standards of service

Our office hours are 8.30am to 5.00pm, Monday to Friday (excluding public holidays). However, in some regional areas these vary.

We aim to finalise most disputes within 30 working days, but difficult or more complex disputes may take longer to resolve. We aim to respond to letters within five (5) working days and telephone messages within 24 hours.

Dispute resolution diagram

