

Fair Trading applying to Retirement Villages

Fact sheet

The Queensland Office of Fair Trading has developed fact sheets and helpful videos (visit www.fairtrading.qld.gov.au) explaining how the *Fair Trading Act 1989* protects consumers. For more information about *Australian Consumer Law*, visit www.consumerlaw.gov.au

Misleading or deceptive conduct

Residents and prospective residents of retirement villages are protected from misleading and deceptive conduct by the *Retirement Villages Act 1999* and the *Fair Trading Act 1989*. Operators providing documents that they know contain false or misleading information to a resident or prospective resident would be liable to prosecution action for breaching this prohibition.

If a resident faces loss because of a contravention of this law, the resident may apply to the Queensland Civil and Administrative Tribunal to have their residence contract set aside.

Misleading or deceptive conduct - misleading advertising

It is illegal for businesses to mislead consumers when advertising goods and services. A business may break the law if it creates a misleading overall impression among customers about the price, value or quality of goods or services. It is a business's actions and statements that matter - not its intentions. A business can mislead and deceive, without intending to.

Misleading or deceptive conduct - silence

A business is breaking the law if it fails to disclose relevant facts to you. Whether this silence may be misleading or deceptive will depend on the circumstances of each case.

Misleading or deceptive conduct - disclaimers and fine print

Businesses cannot rely on the fine print to advise consumers of important facts about goods or services. However, as a consumer you cannot just ignore disclaimers, because they are not illegal if they are prominently displayed and don't undermine the offer being made.

Misleading or deceptive conduct - predictions and opinions

A promise, opinion or prediction can be misleading or deceptive if the business knew it was false, did not care if it was true or not, or had no reasonable grounds for making it.

For example, the following advertising messages may be regarded as misleading:

- a mobile phone seller offering free weekend calls, but not stressing that the offer excludes calls to other mobile networks
- a business holding a 25% off all stock sale when they are excluding some items
- a business marketing reduced rates to entice customers, when only a limited number of items are actually available at that rate.



Unconscionable conduct

Generally, 'unconscionable conduct' is a statement or action so unreasonable it defies good conscience. A business must not act unconscionably when selling or supplying goods and services to a consumer. Examples of unconscionable conduct by a business might include:

- not properly explaining the conditions of a contract to a person they know does not speak English or has a learning disability
- not allowing sufficient time to read an agreement, ask questions or get advice
- using a friend or relative of the customer to influence the customer's decision
- inducing a person to sign a blank or one-sided contract
- failing to disclose key contractual terms
- using high pressure tactics, such as refusing to take 'no' for an answer.

Other information

The *Queensland Law Handbook* published by the Caxton Legal Centre Inc., a community legal centre, includes a helpful chapter on consumers and contracts and on resolving disputes and accessing legal assistance. The handbook is available to purchase by telephoning 07 3214 6333. Copies are kept in many public libraries.

Contact Information

Regulatory Services, Department of Housing and Public Works

Government agency that administers the Retirement Villages Act 1999, including investigating complaints and alleged breaches of the Act

GPO Box 690
Brisbane QLD 4001
Phone: 07 3008 3450
Email: regulatoryservices@communities.qld.gov.au

Office of Fair Trading Department of Justice and Attorney-General

Government agency that administers the Fair Trading Act 1989 including investigating complaints and alleged breaches of the Act

Lodge a complaint form online at: <https://www.qld.gov.au/consumerrights>
Telephone: 13 QGOV (13 74 68) Monday to Friday 8 am to 6 pm

Case Assessment and Response Unit

Office of Fair Trading
GPO Box 3111
Brisbane QLD 4001
Email – BrisbaneOFT@justice.qld.gov.au

Queensland Retirement Village and Park Advice Service (QRVPAS)

QRVPAS is a specialist service providing free information and legal assistance for residents and prospective residents of retirement villages and manufactured home parks in Queensland.

Caxton Legal Centre Inc.

1 Manning Street, South Brisbane, QLD 4101

Phone: 07 3214 6333

Email: caxton@caxton.org.au

Website: www.caxton.org.au

Queensland Law Society (QLS)

QLS has a referral list of solicitors with expertise in retirement villages and manufactured homes.

GPO Box 1785

Brisbane QLD 4001

Phone: 1300 367 757

Email: info@qls.com.au

Website: www.qls.com.au

Queensland Civil and Administrative Tribunal (QCAT)

QCAT can make orders about a range of disputes relating to the Retirement Villages Act 1999.

GPO Box 1639

Brisbane QLD 4001

Phone: 1300 753 228

Fax: 3221 9156

Website: www.qcat.qld.gov.au (<http://www.qcat.qld.gov.au/>)

Email: enquiries@qcat.qld.gov.au (<mailto:enquiries@qcat.qld.gov.au>)