



AUSTRALIAN COMPETITION  
& CONSUMER COMMISSION

# Home care - know your consumer rights



[acc.gov.au](http://acc.gov.au)

When you buy goods or services you have rights under the Australian Consumer Law. You have the same rights when you buy **home care** goods or services, or receive them through a government-funded Home Care Package. So whether you use your own money or government funding, it's important to know your consumer rights.

More detailed information is available in **Home care - a guide to your consumer rights** at [www.accc.gov.au/agedcare](http://www.accc.gov.au/agedcare)

## **You have the right to choose your own home care provider**

Take time to speak to various providers and find the best one for you.

Timeframes apply to the home care package process, but use this time to ask questions and do your research.

For a list of providers, call My Aged Care on 1800 200 422 or use the website [www.myagedcare.gov.au](http://www.myagedcare.gov.au)

## **Take your time or just say 'no' to uninvited direct sales**

Home Care Packages won't normally be sold at your door or over the phone, but it's important to know your rights if you are approached by a home care provider or any seller without invitation.

Under the consumer law, uninvited sellers must:

- tell you their name, the business they represent and that they are contacting you to sell goods or services
- give or send a copy of agreements in plain and clear language
- give or send a form which you can use to cancel the agreement.

### **Avoid signing anything on the spot.**

It is against the law for a business to pressure you. Salespeople must leave on request.

If you sign an agreement with someone who approached you directly without invitation, the consumer law gives you **10 business days to change your mind** and cancel the agreement.

## **Watch out for false promises**

It is illegal for a business to make false statements or leave out important facts, where to do so is misleading.

Providers must be upfront and truthful when providing you with information. You may have a right to a remedy if they did not supply what was promised.

### **Be aware of scammers who**

may pretend to be a business or government agency. They can contact you by phone, email, social media or in person about home care or any

other goods and services. Never give personal information or payment unless you are 100% sure they are who they say they are.

## Understand your Home Care Agreement

Your Home Care Agreement is the **contract** which sets out the terms of your service.

**Never sign anything you don't understand** - take time to look over the agreement and ask questions.

Make sure your agreement includes important information such as your care and services plan, budget and your contribution.

What to look for in your agreement:

- who is providing your services
- how much the service will cost, including any exit amounts
- the process to transfer to a new provider.

Insist that your agreement includes a term that exit fees will not be payable if your provider makes changes to your agreement that you don't consent to.

## **Seek advice on your Home Care Agreement**

You can get assistance from an advocate, legal adviser, or a family member. Advocates can help you set up and review your Home Care Agreement, care plan and budget.

## **Look out for unfair terms in your Home Care Agreement**

The consumer law protects you from unfair terms in standard contracts.

Your agreement should be a balance of rights and obligations. A term may be 'unfair' if it gives more rights to a provider than you and is not necessary to protect the provider.

A term allowing a provider to change your agreement without getting your consent is likely to be unfair.

An advocate or legal adviser may assist you to identify unfair terms.

Speak to your provider if you think a term is unfair. If you can't resolve the issue, contact your state consumer protection agency.

## What to do if your Home Care Agreement changes

A provider might need to change your Home Care Agreement, but they should only do so with your consent. Make sure you understand what the changes mean for you and only sign if you are happy with the changes.

## You have the right to get what was promised

Occasionally problems can occur when you receive goods or use services. When you hire or purchase goods or services in Australia you have automatic rights called **consumer guarantees**.

Services must be:

- provided with acceptable care and skill
- fit for the purpose or give the results that you and the business agreed to
- delivered within a reasonable time, where there is no agreed time.

You can ask your provider to fix a problem if these guarantees aren't met. This can include asking for a refund or cancellation or for services to be done again. In some cases you can also claim compensation for damages or loss caused by the poor service.

Goods must:

- be of acceptable quality - meaning safe, durable and free from defects
- be fit for purpose, or a purpose you made known to the business, and
- match any sample or description shown.

Just like services, if the guarantees relating to goods aren't met you have a right to make a claim to the seller to fix the problem. If it's a minor problem you can ask the seller to fix it. If it is a major problem, or a problem that can't be fixed at all or within a reasonable time, you have the right to ask for your money back or get a replacement.

Consumer guarantees don't apply in some situations (e.g. if you change your mind).

## **Understand how your funds are spent**

Check your monthly statements from your provider are correct and match what you agreed to pay.

If fees on your statements were not agreed to or you weren't told about them, ask your provider.

## You can change provider any time

You can change providers for any reason including to get a better deal, to better meet your needs or because you've had some problems.

Consider if you will need to pay an exit fee to change. Some providers don't charge exit fees. If they do, the exit amounts can only come out of your unspent funds, so check your final bill.

Remember that under the consumer guarantees, you may be entitled to terminate your service and if you do so, your provider should not charge you an exit fee.



## Where to go for information or help

Consider using your consumer rights and ask the provider to fix the problem first. You also have rights under Aged Care laws. For more information or help, these organisations might be able to assist.

### **Older Persons Advocacy Network (OPAN)**

OPAN is funded by the National Aged Care Advocacy Program. It provides free, independent and confidential advocacy services to older people. You should try this service first. For more information go to [www.opan.com.au](http://www.opan.com.au) or phone 1800 700 600.

### **Aged Care Complaints**

If you have any concerns about aged care services provided to you or someone else you can call 1800 550 552 or visit [www.agedcarecomplaints.gov.au](http://www.agedcarecomplaints.gov.au)

### **My Aged Care**

For more information about accessing a home care package or finding a provider, call My Aged Care on 1800 200 422. The [www.myagedcare.gov.au](http://www.myagedcare.gov.au) website has specific information for indigenous consumers as well as people with diverse needs. This includes resources in other languages. My Aged Care is provided by the Department of Health.

## **State Consumer Protection Agencies**

Find your nearest consumer protection agency at [www.consumerlaw.gov.au/consumers](http://www.consumerlaw.gov.au/consumers)

### **Australian Capital Territory**

Access Canberra - (02) 6207 3000

### **New South Wales**

NSW Fair Trading - 13 32 20

### **Northern Territory**

NT Consumer Affairs - 1800 019 319

### **Queensland**

Office of Fair Trading Queensland - 13 74 68

### **South Australia**

Consumer and Business Services - 131 882

### **Tasmania**

Consumer, Building and Occupational Services Tasmania - 1300 654 499

### **Victoria**

Consumer Affairs Victoria - 1300 55 81 81

### **Western Australia**

Department of Mines, Industry Regulation and Safety (Consumer Protection) Western Australia - 1300 304 054

## **ACCC**

For more information visit: [acc.gov.au/agedcare](http://acc.gov.au/agedcare). To report a problem use the online form or phone 1300 302 502.

Visit [www.scamwatch.gov.au](http://www.scamwatch.gov.au) to learn how to identify scams.

## **For help contacting organisations**

### **Translating and Interpreting Service (TIS)**

If you speak a language other than English, you can call the Translation and Interpreting Service on 131 450.

### **Hearing assistance**

If you have a hearing or speech impairment contact the National Relay Service at [www.relayservice.gov.au](http://www.relayservice.gov.au) or phone 133 677.

#### **Important notice**

The information in this publication is for general guidance only. It does not constitute legal or other professional advice, and should not be relied on as a statement of the law in any jurisdiction. Because it is intended only as a general guide, it may contain generalisations. You should obtain professional advice if you have any specific concern.

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