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Signed:		
Date: / /		





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Australia's campaign to stop violence against women





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Lodge a student protection referral or lodge a complaint here.

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For a WorkCover Queensland update on COVID-19, including FAQs, please click [here](#).

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Processed by

Date

Verified by

Date

Fortnight ending



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www.justice.qld.gov.au





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Arrangements

SOA number: COM-0126

SOA name: Early Intervention Program (prevention/management of workplace injuries/illness)

SOA description:

The Standing Offer Arrangement provides for an Early Intervention Program (prevention/management of workplace injuries/illness) that will deliver face to face contact between the provider and worker, provider and workplace, provider and practitioner (if required).

The program is undertaken by a health professional and involves the following deliverables:

- Actioning referrals
- Comprehensive assessment (including worker, agency and treating medical practitioner)
- Intervention and reporting
- Action Plan and case conferencing
- Closure and outcomes

Start date: 08-Sep-2014

Expiry date: 07-Sep-2017

Department: Department of Communities

Section: Finance and Procurement Services

Category: Business services - HR, WHS contractors and consultants

SOA type: Common use supply arrangements

SOA contact: Procurement Services

SOA contact phone: 07 3247 6207

SOA contact email: procurement@communities.qld.gov.au

Access permission: General

Status: Current

Links: Standing Offer Arrangement Conditions Version 004 – dated 1 July 2012

SOA suppliers:

- 3DMIND Solutions Pty Ltd
- Advanced Personnel Management
- CIM Group Holdings (formally CIM Health)
- Coastal Work and Rehabilitation Solutions
- EASEC Pty Ltd
- Hall and Korn
- Injury Treatment Pty Ltd
- IPAR Rehabilitation Pty Ltd
- Kinnect Pty Ltd
- Konekt Australia Pty Ltd
- National Workforce Consulting
- Recovre Group Pty Ltd
- Russell Professional Group Queensland Pty Ltd
- Strive Occupational Rehabilitation Pty Ltd
- Workwise Safety and Rehab Pty Ltd

Supplier Details:

Keywords:

SOA Documents

01 - Early Intervention Program overview.pdf (17-Sep-2015)

02 - Supplier summary information.pdf (17-Sep-2015)

03 - Pricing schedule.xlsx (17-Sep-2015)

04 - Additional intervention training services (optional).pdf (17-Sep-2015)

05 - Geographical areas.pdf (17-Sep-2015)

06 - Schedule A - Order (template).doc (17-Sep-2015)

07 - Request for early intervention services (example).doc (17-Sep-2015)

08 - Employee authorisation (example).doc (17-Sep-2015)

09 - Deed of confidentiality and privacy (template).doc (17-Sep-2015)

10 - Comprehensive report (example).doc (17-Sep-2015)

11 - Suitable duties program (example).doc (17-Sep-2015)

12 - Closure report (example).doc (17-Sep-2015)

COM-0126 Buyers guide Final.pdf (09-Oct-2014)

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Early Intervention Program overview

1 Pre-referral	2 Referral	3 Assessment	4 Intervention and reporting	5 Action plan	6 Closure / outcomes
As early as possible	Within 2 days of referral	Within 10 days of referral	Within 20 days of referral	Within 25 days of referral	Ongoing
	Supplier <ul style="list-style-type: none"> After receiving referral make contact with employee 	Supplier <ul style="list-style-type: none"> Conduct assessment with employee Liaise with customer, treating medical practitioner and health professionals 	Supplier <ul style="list-style-type: none"> Report on assessment outcomes and proposed interventions to customer Prepare for case conference Delivery of interventions (were appropriate) 	Supplier <ul style="list-style-type: none"> Facilitate case conference in conjunction with customer Develop action plan of agreed future recommendations Summary report to be provided to customer within 5 days of case conference 	Supplier <ul style="list-style-type: none"> Summary report provided to customer Debrief with manager regarding opportunities for organisational improvement
Customer <ul style="list-style-type: none"> Identify the problems or issues Contact the employee to obtain their consent Make initial contact with the chosen provider 	Customer <ul style="list-style-type: none"> Provide case details to supplier 	Customer <ul style="list-style-type: none"> Facilitate assessment activities with the supplier Consult with the supplier as needed 	Customer <ul style="list-style-type: none"> Consult with supplier as needed Review provider report and prepare for case conference 	Customer <ul style="list-style-type: none"> Participate in case conference activities All parties sign off on agreed outcomes 	Customer <ul style="list-style-type: none"> Ensure action plan is implemented, monitored, evaluated and where necessary changes made Provide additional support interventions to implement action plan



1. Pre-referral processes

Responsibility & Deliverable	Timeframe
Customer <ul style="list-style-type: none"> • Identification of employee experiencing a potential health issue (physical and/or psychological) in the workplace. • Customer establishes contact with employee to discuss program and obtain their agreement to participate. • The employee must agree to participate prior to referral to the Supplier. • Employee to sign an Employee authorisation (please refer to attached example) that will be included with the referral to the Supplier. 	

2. Referral processes

Responsibility & Deliverable	Timeframe
Customer <ul style="list-style-type: none"> • A referral by way of a Request for early intervention services (please refer to attached example) form (or similar) should be completed and forwarded with Employee authorisation to engage the services of the Supplier. • Dissemination of Information from Customer to Supplier The Customer should identify and refer to the Supplier all information relevant to the case such as Customer contact officer, employee and employment details, supervisor/manager, brief description of current issues and treating practitioners. • Notification to WorkCover If a claim for compensation has been lodged by the employee, then WorkCover should be notified once the employee has commenced an Early Intervention Program. 	
Supplier <ul style="list-style-type: none"> • Confirmation of receipt of referral request and ability to provide Early Intervention Program with Customer project coordinator within 24 hours. 	1 work day (from referral)
Supplier <ul style="list-style-type: none"> • Supplier to establish contact with employee within 48 hours. <i>If contact cannot be made with the employee within the 48 hour timeframe the Supplier to inform Customer referring officer</i> 	>2 work days (from referral)

3. Comprehensive assessment	
Responsibility & Deliverable	Timeframe
<p>Supplier</p> <p>Following the assessment, the Supplier determines whether or not intervention is appropriate. If so, the process can proceed to the intervention stage. If not, the Supplier will provide the department with an early cessation report indicating why intervention is not an appropriate option.</p> <p>The following stakeholders will be interviewed during the assessment process:</p> <p>Employee:</p> <ul style="list-style-type: none"> • The Supplier contacts the employee directly to arrange an appointment for assessment. • Supplier conducts an assessment of the employee. • Supplier obtains a written authority from the employee before contacting relevant workplace contacts or treating practitioner. <p>Customer:</p> <ul style="list-style-type: none"> • Information can be obtained either by direct contact with Customer project coordinator, manager/supervisor or Customer injury management consultant. • Supplier should seek information from the Customer in relation to any work or non-work related issues that may have impacted the employee. <p>Treating practitioner (optional):</p> <ul style="list-style-type: none"> • Interviews with treating medical practitioner/s and other health professionals may occur following assessment of employee or after further information has been obtained from Customer. • It is acknowledged that it may be difficult to meet with the treating practitioner within the allocated timeframes. If the >10 work day timeframe cannot be achieved, the Supplier is to advise the Customer contact. 	<p>>10 work days (from referral)</p>



4. Intervention and reporting	
Responsibility & Deliverable	Timeframe
<p>Supplier</p> <p>Where appropriate, the Supplier may deliver intervention services such as:</p> <ul style="list-style-type: none"> • Workplace visit • Conflict resolution • Counselling • GP or psychologist visit • Additional testing • Development of return to work goals • Preparation for employee and Customer for a Case Conference <p>At this stage, the Supplier will prepare a Comprehensive report (please refer to attached example) that should include:</p> <ul style="list-style-type: none"> • Results of employee interview (e.g. how employee presented, personal history/circumstances, relevant medical diagnosis if provided) • Current employee medical condition including current symptoms, functional level, treatment • Identification of contributing work and non-work related issues • Identification of health and safety issues that may contribute to physical or psychological injury • Identification of strategies for maintaining employee at work • Identification of barriers for return to work and return to work strategy <p>If case conference is not possible within 25 days from referral, a brief interim report should be prepared. The interim report should include:</p> <ul style="list-style-type: none"> • Any changes to medical condition • Actions completed • Barriers that will prevent the program from being completed within the nominated time frame • Recommendations and/or anticipated program goals and timeframes. 	<p>>20 days (from referral)</p>



5. Action plan and case conference	
Responsibility & Deliverable	Timeframe
Supplier Preparation for Case Conference <ul style="list-style-type: none"> Agreed interventions confirmed with Customer prior to case conference. Supplier to notify employee and facilitate their attendance at case conference. Supplier to liaise with Customer contact to confirm dates and availability of relevant stakeholders in preparation for case conference. 	>20 days <i>(from referral)</i>
Customer <ul style="list-style-type: none"> Facilitation of case conference.(i.e. coordinate internal stakeholders and venue) Ensure all stakeholders (e.g. Manager/Supervisor) are briefed with regard to their roles at Case Conference ensuring understanding and commitment to agreed interventions. 	>20 days <i>(from referral)</i>
Case conference <ul style="list-style-type: none"> Supplier to ensure that outcomes from meeting are clearly documented in an Action Plan with written agreement signed off by all parties. Where appropriate, a Suitable duties plan (please refer to attached example) may also be developed. 	>25 days <i>(from referral)</i>
Customer <ul style="list-style-type: none"> Chaired by senior Customer staff member Genuine encouragement and support provided to employee <p><i>Note: As this process is designed to assist the employee's recovery, the employee may choose to have a Union Representative or another support person present at Case Conference.</i></p>	

6. Closure / outcomes	
Responsibility & Deliverable	Timeframe
Supplier <ul style="list-style-type: none">Following the development of the Action Plan, the Supplier prepares a Closure report (please refer to attached example) including possible future recommendations. This Closure report should be completed within 5 working days of case conference.The case conference concludes the Supplier's role in the Early Intervention Program.	>5 days (from case conference)
Customer <ul style="list-style-type: none">It is the responsibility of Customer stakeholders (e.g. employee, supervisor/manager, rehab coordinator) to ensure the Action Plan is implemented, monitored, evaluated and where necessary, changes made.	





Arrangements

SOA number: COM-0126
SOA name: Early Intervention Program (prevention/management of workplace injuries/illness)
SOA description: The Standing Offer Arrangement provides for an Early Intervention Program (prevention/management of workplace injuries/illness) that will deliver face to face contact between the provider and worker, provider and workplace, provider and practitioner (if required).
 The program is undertaken by a health professional and involves the following deliverables:

- Actioning referrals
- Comprehensive assessment (including worker, agency and treating medical practitioner)
- Intervention and reporting
- Action Plan and case conferencing
- Closure and outcomes

Start date: 08-Sep-2014
Expiry date: 07-Sep-2017
Department: Department of Communities
Section: Finance and Procurement Services
Category: Business services - HR, WHS contractors and consultants
SOA type: Common use supply arrangements
SOA contact: Procurement Services
SOA contact phone: 07 3247 6207
SOA contact email: procurement@communities.qld.gov.au
Access permission: General
Status: Current
Links: Standing Offer Arrangement Conditions Version 004 – dated 1 July 2012
SOA suppliers:

- 3DMIND Solutions Pty Ltd
- Advanced Personnel Management
- CIM Group Holdings (formally CIM Health)
- Coastal Work and Rehabilitation Solutions
- EASEC Pty Ltd
- Hall and Korn
- Injury Treatment Pty Ltd
- IPAR Rehabilitation Pty Ltd
- Kinnect Pty Ltd
- Konekt Australia Pty Ltd
- National Workforce Consulting
- Recovre Group Pty Ltd
- Russell Professional Group Queensland Pty Ltd
- Strive Occupational Rehabilitation Pty Ltd
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Supplier Details:

Keywords:

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Early Intervention Program overview

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3. Comprehensive assessment	
Responsibility & Deliverable	Timeframe
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Responsibility & Deliverable	Timeframe
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Request and referral for Early Intervention Program services

Arrangement Number: COM-0126 Early Intervention Program (prevention/management of workplace injuries/illness)		
Supplier name:	<<insert>>	
Customer details		
Name:	<<insert>>	
ABN:	<<insert>>	
Referral date:	<<insert>>	Customer reference: <<insert>>
Customer contact officer:	<<insert>>	
Phone no:	<<insert>>	Fax: <<insert>>
Email:	<<insert>>	
Employee details		
Name:	<<insert>>	
Address:	<<insert>>	
Postal address:	<<insert>>	
Phone numbers	Work: <<insert>>	Mobile: <<insert>>
Date of birth:	<<insert>>	
Status of worker:	<<insert>>	
WorkCover claim lodged	<input type="checkbox"/> Yes / <input type="checkbox"/> No	Claim no. <<insert, if applicable>>
Stated causation on claim:	<<insert, if applicable>>	
Employment details		
Name:	<<insert>>	
Current position:	<<insert>>	
Business unit/workplace:	<<insert>>	
Address of workplace:	<<insert>>	
Length of time in current role:	<<insert>>	
Employees last day at work:	<<insert>>	
Supervisor/Manager details		
Name:	<<insert>>	
Job title:	<<insert>>	
Workplace contact:	<<insert>>	
Current treating practitioner/s details		
General practitioner:	<<insert>>	

Address:	<<insert>>	Ph: <<insert>>
Health care professional:	<<insert, if applicable>>	
Address:	<<insert, if applicable>>	Ph: <<insert, if applicable>>
Health care professional:	<<insert, if applicable>>	
Address:	<<insert, if applicable>>	Ph: <<insert, if applicable>>
Attachments: <input type="checkbox"/> Brief description of circumstances and relevant background information (if required) <input type="checkbox"/> Employee authorisation		
Referral cited and approved:	Authorising officer: <<insert>>	
Date:	Signature:	

The standard terms and conditions in Standing Offer Arrangement Conditions Version 004 – dated 1 July 2012 apply to this arrangement and are located on the Department of Housing and Public Works website located via: www.hpw.qld.gov.au.

Employee Authorisation

I (name) _____, date of birth _____

of (address) _____

agree to participate in the Early Intervention Program and hereby give my consent for the following external Provider _____ to access and discuss information relevant to my safe and timely return to work with the Case Manager, Department representatives and specified treatment practitioners as nominated below.

Provider name:	Contact phone:
Contact person:	Email:
Case Manager:	
Name:	Contact phone:
Role:	Email:
Supervisor/Manager:	
Name:	Contact phone:
Work Unit:	Email:
Other Departmental representatives:	
Name:	Contact phone:
Role:	Email:
Treating practitioner:	
Name:	Contact phone:
Service: (i.e. GP/Physio)	Address:
Name:	Contact phone:
Service: (i.e. GP/Physio)	Address:
Name:	Contact phone:
Service: (i.e. GP/Physio)	Address:
Name:	Contact phone:
Service: (i.e. GP/Physio)	Address:

Employee Signature: _____ **Date:** ____ / ____ / ____

Contact phone: _____ **Email:** _____

The personal information collected as a result of this form may be used for the following purposes in relation to services under the Early Intervention Program only:

1. the management of your rehabilitation/suitable duties plan
2. to facilitate safe injury management and return to work services; and
3. provide any on-going workplace support services as required.

Your personal information will not be disclosed to any person or agency without your express consent. Your personal information may be disclosed to a treating practitioner in relation to the above purposes only. The personal information collected will not be included in your personnel file.



Queensland Government

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Arrangements

SOA number: COM-0126
SOA name: Early Intervention Program (prevention/management of workplace injuries/illness)
SOA description: The Standing Offer Arrangement provides for an Early Intervention Program (prevention/management of workplace injuries/illness) that will deliver face to face contact between the provider and worker, provider and workplace, provider and practitioner (if required).
 The program is undertaken by a health professional and involves the following deliverables:

- Actioning referrals
- Comprehensive assessment (including worker, agency and treating medical practitioner)
- Intervention and reporting
- Action Plan and case conferencing
- Closure and outcomes

Start date: 08-Sep-2014
Expiry date: 07-Sep-2017
Department: Department of Communities
Section: Finance and Procurement Services
Category: Business services - HR, WHS contractors and consultants
SOA type: Common use supply arrangements
SOA contact: Procurement Services
SOA contact phone: 07 3247 6207
SOA contact email: procurement@communities.qld.gov.au
Access permission: General
Status: Current
Links: Standing Offer Arrangement Conditions Version 004 - dated 1 July 2012
SOA suppliers:

- 3DMIND Solutions Pty Ltd
- Advanced Personnel Management
- CIM Group Holdings (formally CIM Health)
- Coastal Work and Rehabilitation Solutions
- EASEC Pty Ltd
- Hall and Korn
- Injury Treatment Pty Ltd
- IPAR Rehabilitation Pty Ltd
- Kinnect Pty Ltd
- Konekt Australia Pty Ltd
- National Workforce Consulting
- Recover Group Pty Ltd
- Russell Professional Group Queensland Pty Ltd
- Strive Occupational Rehabilitation Pty Ltd
- Workwise Safety and Rehab Pty Ltd

Supplier Details:
Keywords:

SOA Documents

01 - Early Intervention Program overview.pdf (17-Sep-2015)
 02 - Supplier summary information.pdf (17-Sep-2015)
 03 - Pricing schedule.xlsx (17-Sep-2015)
 04 - Additional intervention training services (optional).pdf (17-Sep-2015)
 05 - Geographical areas.pdf (17-Sep-2015)
 06 - Schedule A - Order (template).doc (17-Sep-2015)
 07 - Request for early intervention services (example).doc (17-Sep-2015)
 08 - Employee authorisation (example).doc (17-Sep-2015)
 09 - Deed of confidentiality and privacy (template).doc (17-Sep-2015)
 10 - Comprehensive report (example).doc (17-Sep-2015)
 11 - Suitable duties program (example).doc (17-Sep-2015)
 12 - Closure report (example).doc (17-Sep-2015)
 COM-0126 Buyers guide Final.pdf (09-Oct-2014)

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Early Intervention Program overview

1 Pre-referral As early as possible		2 Referral Within 2 days of referral	3 Assessment Within 10 days of referral	4 Intervention and reporting Within 20 days of referral	5 Action plan Within 25 days of referral	6 Closure / outcomes Ongoing
Customer <ul style="list-style-type: none"> Identify the problems or issues Contact the employee to obtain their consent Make initial contact with the chosen provider 	Supplier <ul style="list-style-type: none"> After receiving referral make contact with employee 	Supplier <ul style="list-style-type: none"> Conduct assessment with employee Liaise with customer, treating medical practitioner and health professionals 	Supplier <ul style="list-style-type: none"> Report on assessment outcomes and proposed interventions to customer Prepare for case conference Delivery of interventions (were appropriate) 	Supplier <ul style="list-style-type: none"> Facilitate case conference in conjunction with customer Develop action plan of agreed future recommendations Summary report to be provided to customer within 5 days of case conference 	Customer <ul style="list-style-type: none"> Participate in case conference activities All parties sign off on agreed outcomes 	Supplier <ul style="list-style-type: none"> Summary report provided to customer Debrief with manager regarding opportunities for organisational improvement
Customer <ul style="list-style-type: none"> Ensure action plan is implemented, monitored, evaluated and where necessary changes made Provide additional support interventions to implement action plan 						

1. Pre-referral processes

Responsibility & Deliverable	Timeframe
Customer <ul style="list-style-type: none"> • Identification of employee experiencing a potential health issue (physical and/or psychological) in the workplace. • Customer establishes contact with employee to discuss program and obtain their agreement to participate. • The employee must agree to participate prior to referral to the Supplier. • Employee to sign an Employee authorisation (please refer to attached example) that will be included with the referral to the Supplier. 	

2. Referral processes

Responsibility & Deliverable	Timeframe
Customer <ul style="list-style-type: none"> • A referral by way of a Request for early intervention services (please refer to attached example) form (or similar) should be completed and forwarded with Employee authorisation to engage the services of the Supplier. • Dissemination of information from Customer to Supplier The Customer should identify and refer to the Supplier all information relevant to the case such as Customer contact officer, employee and employment details, supervisor/manager, brief description of current issues and treating practitioners. • Notification to WorkCover If a claim for compensation has been lodged by the employee, then WorkCover should be notified once the employee has commenced an Early Intervention Program. 	
Supplier <ul style="list-style-type: none"> • Confirmation of receipt of referral request and ability to provide Early Intervention Program with Customer project coordinator within 24 hours. 	1 work day (from referral)
Supplier <ul style="list-style-type: none"> • Supplier to establish contact with employee within 48 hours. <i>If contact cannot be made with the employee within the 48 hour timeframe the Supplier to inform Customer referring officer</i> 	>2 work days (from referral)

3. Comprehensive assessment	
Responsibility & Deliverable	Timeframe
<p>Supplier</p> <p>Following the assessment, the Supplier determines whether or not intervention is appropriate. If so, the process can proceed to the intervention stage. If not, the Supplier will provide the department with an early cessation report indicating why intervention is not an appropriate option.</p> <p>The following stakeholders will be interviewed during the assessment process:</p> <p>Employee:</p> <ul style="list-style-type: none"> • The Supplier contacts the employee directly to arrange an appointment for assessment. • Supplier conducts an assessment of the employee. • Supplier obtains a written authority from the employee before contacting relevant workplace contacts or treating practitioner. <p>Customer:</p> <ul style="list-style-type: none"> • Information can be obtained either by direct contact with Customer project coordinator, manager/supervisor or Customer injury management consultant. • Supplier should seek information from the Customer in relation to any work or non-work related issues that may have impacted the employee. <p>Treating practitioner (optional):</p> <ul style="list-style-type: none"> • Interviews with treating medical practitioner/s and other health professionals may occur following assessment of employee or after further information has been obtained from Customer. • It is acknowledged that it may be difficult to meet with the treating practitioner within the allocated timeframes. If the >10 work day timeframe cannot be achieved, the Supplier is to advise the Customer contact. 	<p>>10 work days (from referral)</p>

4. Intervention and reporting	
Responsibility & Deliverable	Timeframe
<p>Supplier</p> <p>Where appropriate, the Supplier may deliver intervention services such as:</p> <ul style="list-style-type: none"> • Workplace visit • Conflict resolution • Counselling • GP or psychologist visit • Additional testing • Development of return to work goals • Preparation for employee and Customer for a Case Conference <p>At this stage, the Supplier will prepare a Comprehensive report (please refer to attached example) that should include:</p> <ul style="list-style-type: none"> • Results of employee interview (e.g. how employee presented, personal history/circumstances, relevant medical diagnosis if provided) • Current employee medical condition including current symptoms, functional level, treatment • Identification of contributing work and non-work related issues • Identification of health and safety issues that may contribute to physical or psychological injury • Identification of strategies for maintaining employee at work • Identification of barriers for return to work and return to work strategy <p>If case conference is not possible within 25 days from referral, a brief interim report should be prepared. The interim report should include:</p> <ul style="list-style-type: none"> • Any changes to medical condition • Actions completed • Barriers that will prevent the program from being completed within the nominated time frame • Recommendations and/or anticipated program goals and timeframes. 	<p>>20 days (from referral)</p>

5. Action plan and case conference	
Responsibility & Deliverable	Timeframe
Supplier Preparation for Case Conference <ul style="list-style-type: none"> • Agreed interventions confirmed with Customer prior to case conference. • Supplier to notify employee and facilitate their attendance at case conference. • Supplier to liaise with Customer contact to confirm dates and availability of relevant stakeholders in preparation for case conference. 	>20 days <i>(from referral)</i>
Customer <ul style="list-style-type: none"> • Facilitation of case conference.(i.e. coordinate internal stakeholders and venue) • Ensure all stakeholders (e.g. Manager/Supervisor) are briefed with regard to their roles at Case Conference ensuring understanding and commitment to agreed interventions. 	>20 days <i>(from referral)</i>
Case conference <ul style="list-style-type: none"> • Supplier to ensure that outcomes from meeting are clearly documented in an Action Plan with written agreement signed off by all parties. • Where appropriate, a Suitable duties plan (please refer to attached example) may also be developed. 	>25 days <i>(from referral)</i>
Customer <ul style="list-style-type: none"> • Chaired by senior Customer staff member • Genuine encouragement and support provided to employee <p><i>Note: As this process is designed to assist the employee's recovery, the employee may choose to have a Union Representative or another support person present at Case Conference.</i></p>	



6. Closure / outcomes	
Responsibility & Deliverable	Timeframe
Supplier <ul style="list-style-type: none">Following the development of the Action Plan, the Supplier prepares a Closure report (please refer to attached example) including possible future recommendations. This Closure report should be completed within 5 working days of case conference.The case conference concludes the Supplier's role in the Early Intervention Program.	>5 days (from case conference)
Customer <ul style="list-style-type: none">It is the responsibility of Customer stakeholders (e.g. employee, supervisor/manager, rehab coordinator) to ensure the Action Plan is implemented, monitored, evaluated and where necessary, changes made.	



Request and referral for Early Intervention Program services

Arrangement Number: COM-0126 Early Intervention Program (prevention/management of workplace injuries/illness)		
Supplier name:	<<insert>>	
Customer details		
Name:	<<insert>>	
ABN:	<<insert>>	
Referral date:	<<insert>>	Customer reference: <<insert>>
Customer contact officer:	<<insert>>	
Phone no:	<<insert>>	Fax: <<insert>>
Email:	<<insert>>	
Employee details		
Name:	<<insert>>	
Address:	<<insert>>	
Postal address:	<<insert>>	
Phone numbers	Work: <<insert>>	Mobile: <<insert>>
Date of birth:	<<insert>>	
Status of worker:	<<insert>>	
WorkCover claim lodged	<input type="checkbox"/> Yes / <input type="checkbox"/> No Claim no. <<insert, if applicable>>	
Stated causation on claim:	<<insert, if applicable>>	
Employment details		
Name:	<<insert>>	
Current position:	<<insert>>	
Business unit/workplace:	<<insert>>	
Address of workplace:	<<insert>>	
Length of time in current role:	<<insert>>	
Employees last day at work:	<<insert>>	
Supervisor/Manager details		
Name:	<<insert>>	
Job title:	<<insert>>	
Workplace contact:	<<insert>>	
Current treating practitioner/s details		
General practitioner:	<<insert>>	

Address:	<<insert>>	Ph: <<insert>>
Health care professional:	<<insert, if applicable>>	
Address:	<<insert, if applicable>>	Ph: <<insert, if applicable>>
Health care professional:	<<insert, if applicable>>	
Address:	<<insert, if applicable>>	Ph: <<insert, if applicable>>
Attachments: <input type="checkbox"/> Brief description of circumstances and relevant background information (if required) <input type="checkbox"/> Employee authorisation		
Referral cited and approved:	Authorising officer: <<insert>>	
Date:	Signature:	

The standard terms and conditions in Standing Offer Arrangement Conditions Version 004 – dated 1 July 2012 apply to this arrangement and are located on the Department of Housing and Public Works website located via: www.hpw.qld.gov.au.

Employee Authorisation

I (name) _____, date of birth _____

of (address) _____

agree to participate in the Early Intervention Program and hereby give my consent for the following external Provider _____ to access and discuss information relevant to my safe and timely return to work with the Case Manager, Department representatives and specified treatment practitioners as nominated below.

Provider name:	Contact phone:
Contact person:	Email:
Case Manager:	
Name:	Contact phone:
Role:	Email:
Supervisor/Manager:	
Name:	Contact phone:
Work Unit:	Email:
Other Departmental representatives:	
Name:	Contact phone:
Role:	Email:
Treating practitioner:	
Name:	Contact phone:
Service: (i.e. GP/Physio)	Address:
Name:	Contact phone:
Service: (i.e. GP/Physio)	Address:
Name:	Contact phone:
Service: (i.e. GP/Physio)	Address:
Name:	Contact phone:
Service: (i.e. GP/Physio)	Address:

Employee Signature: _____ **Date:** ____ / ____ / ____

Contact phone: _____ **Email:** _____

The personal information collected as a result of this form may be used for the following purposes in relation to services under the Early Intervention Program only:

1. the management of your rehabilitation/suitable duties plan
2. to facilitate safe injury management and return to work services; and
3. provide any on-going workplace support services as required.

Your personal information will not be disclosed to any person or agency without your express consent. Your personal information may be disclosed to a treating practitioner in relation to the above purposes only. The personal information collected will not be included in your personnel file.



Queensland
Government

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Accident insurance policyholders – don't forget to declare your wages before the 31 August deadline

Use our online services to quickly and easily declare your wages information and pay your premium. Find out who you need to cover and what payments you need to declare as wages at [worksafe.qld.gov.au/premium](https://www.worksafe.qld.gov.au/premium).

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Security Providers Association of Australia Limited (SPAAL)

Security Provider Compliance

Grant Rasmussen
Manager
Marketplace and Financial Investigations
Office of Fair Trading

12 September 2019

Disclaimer - The below reports have been drawn from OFT's database as at a point in time and therefore may vary over time. These figures are provided as a guide only for internal reporting and should not be taken as actual or quoted in formal reporting or for general distribution.



Our markets

The OFT is responsible for improving safety and fairness for Queensland businesses and consumers. The markets for which we are responsible are diverse as is demonstrated by the many pieces of associated legislation we administer.

At June 2017, Queensland had:













At June 2017, 2,238,300 businesses actively trading in Australia.

Of these 437,646 operating in Queensland representing
19.6% of all businesses in Australia.



Licence holders

Category/Industry	Classes	Licences at 01-01-2019	New licences issued in 2017-18
 Chattel Auctioneer	3	1482	85
 Debt Collection	4	510	77
 Inbound Tourism	1	97	22
 Introduction Agent	1	13	6
 Motor	4	8137	1155
 Pawnbroker	1	7	3
 Property	10	47,333	7236
 Second-Hand Dealer	2	1278	239
 Security	20	68,345	23,064 (including 4463 temporary licences for Commonwealth Games)
 Other	5	1135	284



Legal actions

Over the last three financial years, the industries with the most legal actions issued were:



Real Estate Agents
(excl RLA)

2699



Security Providers

595



Motor Vehicle Sales

352



Resident Letting Agent

156



Personal and household goods

136

*Excludes admin disciplinary actions

The OFT applies a multi-level approach to compliance and enforcement. This table shows the number of Warnings, Infringements and Court prosecutions for each of the top five industries over the last three financial years.

WARNINGS

475	537	707	108	75	55	44	44	84	21	15	29	28	37	60
2015-16	2016-17	2017-18	2015-16	2016-17	2017-18	2015-16	2016-17	2017-18	2015-16	2016-17	2017-18	2015-16	2016-17	2017-18

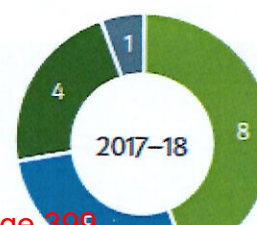
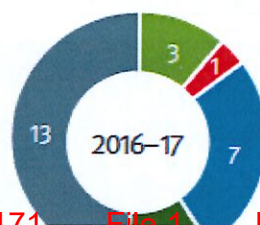
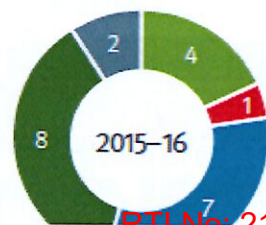
INFRINGEMENTS

268	330	316	88	52	25	53	40	53	12	10	11	0	1	0
2015-16	2016-17	2017-18	2015-16	2016-17	2017-18	2015-16	2016-17	2017-18	2015-16	2016-17	2017-18	2015-16	2016-17	2017-18

COURT PROSECUTIONS

4	3	8	1	1	0	7	7	5	8	3	4	2	33	3
2015-16	2016-17	2017-18	2015-16	2016-17	2017-18	2015-16	2016-17	2017-18	2015-16	2016-17	2017-18	2015-16	2016-17	2017-18

Zoomed in Court prosecutions:



Enforcement strategy



Safe
communities



Fair
communities



Responsible
communities

Justice for all through safe, fair and responsible communities

INITIATIVES

ACTIONS



Effective proactive and reactive compliance activities, deploying resources where they are most needed.



Quarterly results that meet or exceed targets.

Appropriate enforcement action where breaches are identified and proven.



Work with other jurisdictions to achieve a consistent Australian.

Nationally agreed education, compliance and enforcement operations are undertaken.



Consumer Law regulatory framework including:



- integrated compliance approach on key areas of focus
- integrated and coordinated development of education materials
- consistent approach to enforcement.



Maintain and improve consistent consumer product safety and information standards in conjunction with other jurisdictions.

Safety hazards in consumer goods are identified and addressed including through complaint investigation and scheduled proactive compliance.



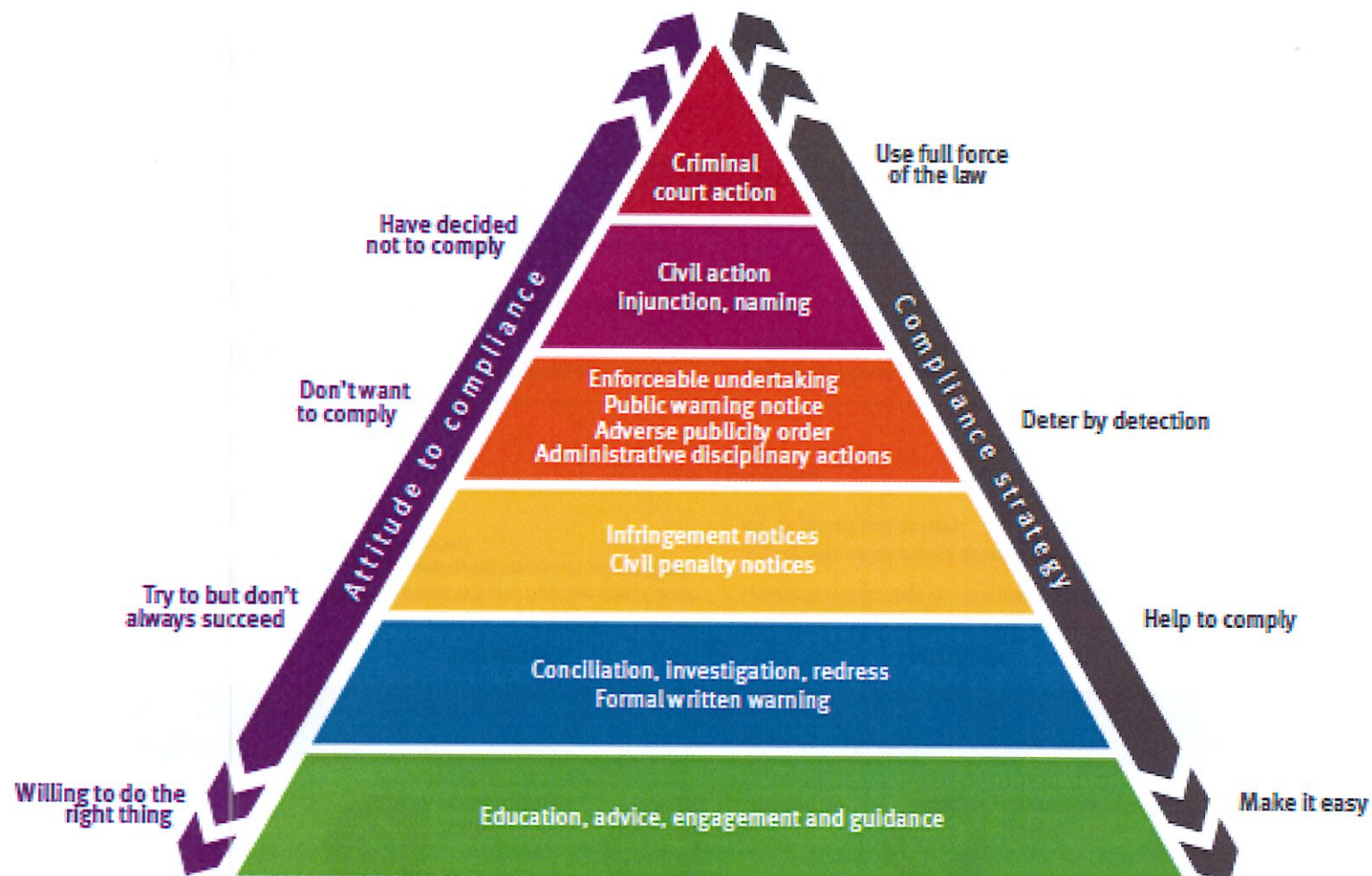
Education and information activities are undertaken to help ensure industry is aware of its obligation to provide consumer goods that meet or exceed requirements and consumers are aware of the correct way to use products.



Maintain and improve community engagement strategies including

Consumers and business are aware of their rights and responsibilities.

Enforcement strategy



The Compliance and Enforcement Policy (CEP) formalises the general policy and standards on which the OFT bases its compliance business, including the delivery of PRIME and



Investigations Received

1 July 2018 to 30 June 2019

Investigations Received 1 July 2018 to 30 June 2019 by Source and Outcome for Security Providers Breaches						
INVESTIGATION SOURCE						
INVESTIGATION OUTCOME	COMPLAINT	COMPLIANCE CHECK	INTELLIGENCE	BUSINESS SERVICE	AUDIT REPORT	Total Inv
BELOW INVESTIGATION THRESHOLD			2			2
COMPLIANCE ADVICE LETTER SENT	3	6	36			45
INFRINGEMENT/S ISSUED		22	11			33
INSUFFICIENT EVIDENCE OF BREACH	8	13	66		2	89
NO EVIDENCE OF BREACH	1	39	27			67
NOT INVESTIGATED DUE TO OFT POLICY		1				1
OUT OF TIME		1	6			7
REF'D ELSEWHERE	3		2			5
REF'D FOR ADMIN. DISCIPLINARY ACTION/S			17			17
TRADER COMPLIANT FOLLOWING ADVICE		1	7			8
UNABLE TO LOCATE TRADER			12			12
WARNING/S ISSUED	4	48	75			127
Current Outstanding						0
Total	19	131	261	0	2	413



Security Providers - enforcement actions

1 July 2018 to 30 June 2019

Security providers – Number of Enforcement Actions Resulting from Investigations Received from 1 July 2018 to 30 June 2019 by Legislation/Section and Legal Type					
			Legal Action Type		
Legislation	Section	Section Description	INFRINGMENT NOTICE	WARNING	TOTAL BREACHES ENFORCED
SECURITY PROVIDERS ACT 1993					
	9 (1) (a)	UNLICENSED SECURITY PROVIDER	2	7	9
	9 (1) (b)	UNLICENSED SEC PROVIDER ADVERTISES/CARRIES ON FUNCTION OF A SEC PROVIDER	2	3	5
	9 (2)	ENGAGE AN UNLICENSED PROVIDER		3	3
	23 (2)	FAILED TO COMPLY WITH RETURN OF SUSPENDED OR CANCELLED LICENSE	3	50	53
	25A	REPLACEMENT LICENSE		1	1
	47	LICENSED CROWD CONTROLLER, WHEN ACTING AS A CROWD CONTROLLER, FAILED TO WEAR PRESCRIBED IDENTIFICATION SO IT WAS CLEARLY VISABLE		9	9
SECURITY PROVIDERS ACT 1993 Total			7	73	80
SECURITY PROVIDERS REGULATION 2008					
	12 (1)	A LICENSEE MUST GIVE NOTICE OF ANY CHANGE IN DETAILS WITHIN 7 DAYS	5	33	38
	18 (1)	LIQUOR LICENSEE MUST KEEP REGISTER OF PERSONS ENGAGED TO CARRY OUT FUNCTIONS OF CROWD CONTROLL		3	3
	18 (5)	CROWD CONTROLL REGISTER MUST CONTAIN DETAILS OF DATE, LOCATION, PERSONS AND INCIDENT		1	1
	18 (6)	CROWD CONTROLL REGISTER MUST BE SIGNED BY CROWD CONTROLLER	2	9	11
	20 (1)	SECURITY FIRM MUST KEEP A REGISTER OF SECURITY PROVIDERS ENGAGED BY THE SECURITY FIRM		1	1
	21 (2)	SECURITY FIRM MUST KEEP A REGISTER OF CROWD CONTROLLERS ENGAGED BY THE SECURITY FIRM		4	4
	21 (6)	SECURITY FIRM MUST ENSURE THE CROWD CONTROL REGISTER IS SIGNED BY CROWD CONTROLLER		1	1
SECURITY PROVIDERS REGULATION 2008 Total			7	52	59
TOTAL			14	125	139

Queensland Police infringements issued 1 July 2018 to 30 June 2019

Infringements Issued by QPS for Security Provider Offences from 1 July 2018 to 30 June 2019			
Section	Offence Code	Infringement Description	Total
SECURITY PROVIDERS ACT 1993			
9 (1) (a)	SPA001	UNLICENSED SECURITY PROVIDER	3
47	SPA8005	LICENSED CROWD CONTROLLER, WHEN ACTING AS A CROWD CONTROLLER, FAILED TO WEAR PRESCRIBED IDENTIFICATION SO IT WAS CLEARLY VISABLE	2
SECURITY PROVIDERS ACT 1993 Total			5
SECURITY PROVIDERS REGULATION 2008			
12 (1)	SPR802	A LICENSEE MUST GIVE NOTICE OF ANY CHANGE IN DETAILS WITHIN 7 DAYS	2
18 (6)	SPR818	CROWD CONTROLL REGISTER MUST BE SIGNED BY CROWD CONTROLLER	36
19 (2)	SPR806	CROWD CONTROLL REGISTER MUST NOT BE ALTERED	1
22 (2)	SPR814	SECURITY FIRM MUST NOT REMOVE A PAGE FROM THE REGISTER, ERASE AN ENTRY IN THE REGISTER, ALLOW A PERSON TO ERASE AN ENTRY IN THE REGISTER	1
SECURITY PROVIDERS REGULATION 2008 Total			40
TOTAL			45



Crowd Controller - Compliance Checks

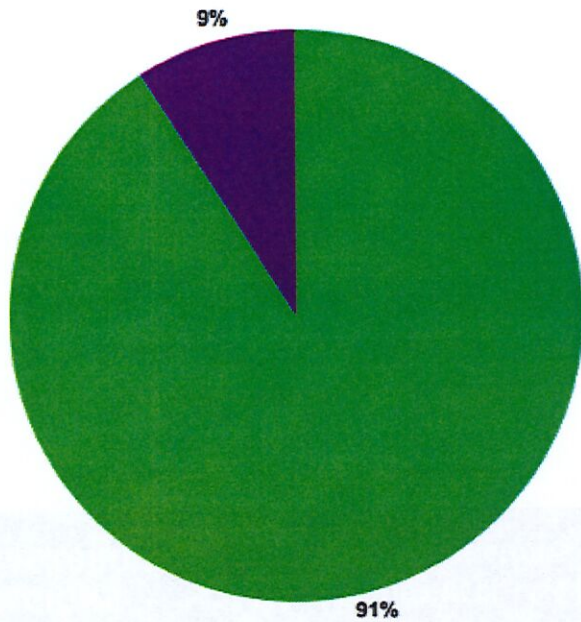
1 July 2018 to 30 June 2019

Compliance Checks from 1 July 2018 to 30 June 2019						
OLGR Region	Spot Checks	Entities Checked	Premises Checked	Number Compliant	Number Investigated	Percentage Investigated
BRISBANE	277	475	225	240	31	11%
CAIRNS	16	46	13	15	1	6%
GOLD COAST	29	57	25	25	4	14%
HERVEY BAY	35	64	22	34	0	0%
MACKAY	14	29	11	14	0	0%
ROCKHAMPTON	40	90	29	35	4	10%
SUNSHINE COAST	44	109	37	37	7	16%
TOOWOOMBA	20	59	17	20	0	0%
TOWNSVILLE	35	179	24	34	1	3%
TOTAL	510	1108	403	454	48	9%

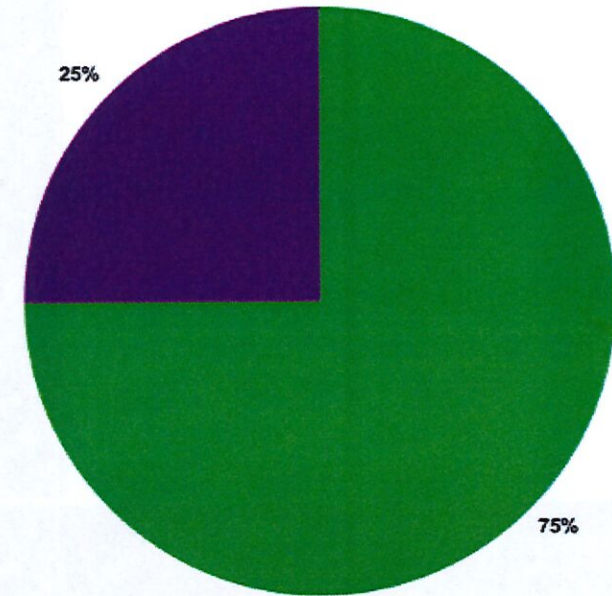


Security Industry compliance compared with other industry groups

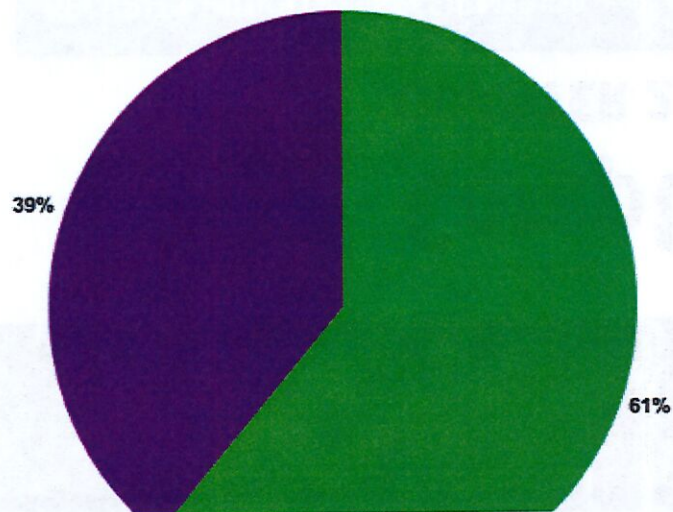
Security industry



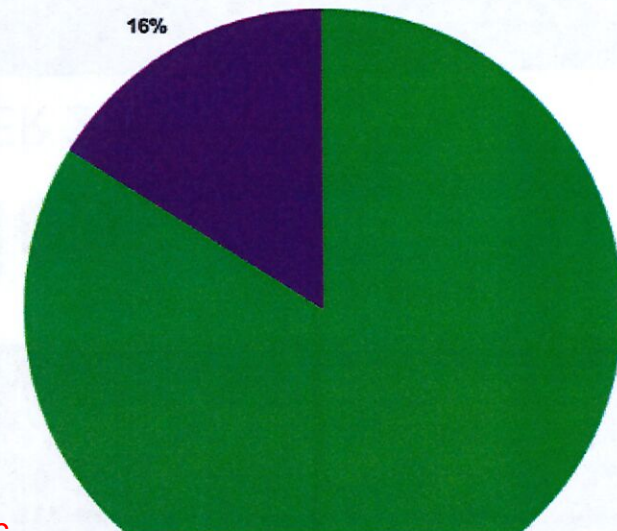
Motor Dealer industry



Secondhand Dealer industry



Real Estate industry



Proactive regulation of industry and marketplace entities (PRIME) program 2019-20

Compliance operations

QUARTER 2—OCTOBER to DECEMBER 2019

SECURITY INDUSTRY: SECFIRM19/20

FOCUS: Security firms—review compliance with SPA.
TARGETS: Security firms or officers who have not received an OFT visit in the last two years or have a history of non-compliance.
REGIONS: ALL regions except GC, SC and Mky
BACKGROUND: #2 of top legal actions issued (industry group): Security Providers (over the last three financial years).

SECURITY INDUSTRY: SCHOOLIES19

FOCUS: Security firms/officers—review compliance with SPA.
TARGETS: Security firms or officers hired for schoolies events, accommodation etc.
REGIONS: GC, SC and Mky only
BACKGROUND: Top legal actions issued: Ranked #2: Security Providers industry group over the last three financial years).



Compliance prosecutions

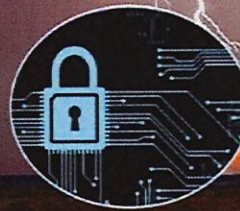
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Air Con



Automation



Security



Electrician



Compliance prosecutions

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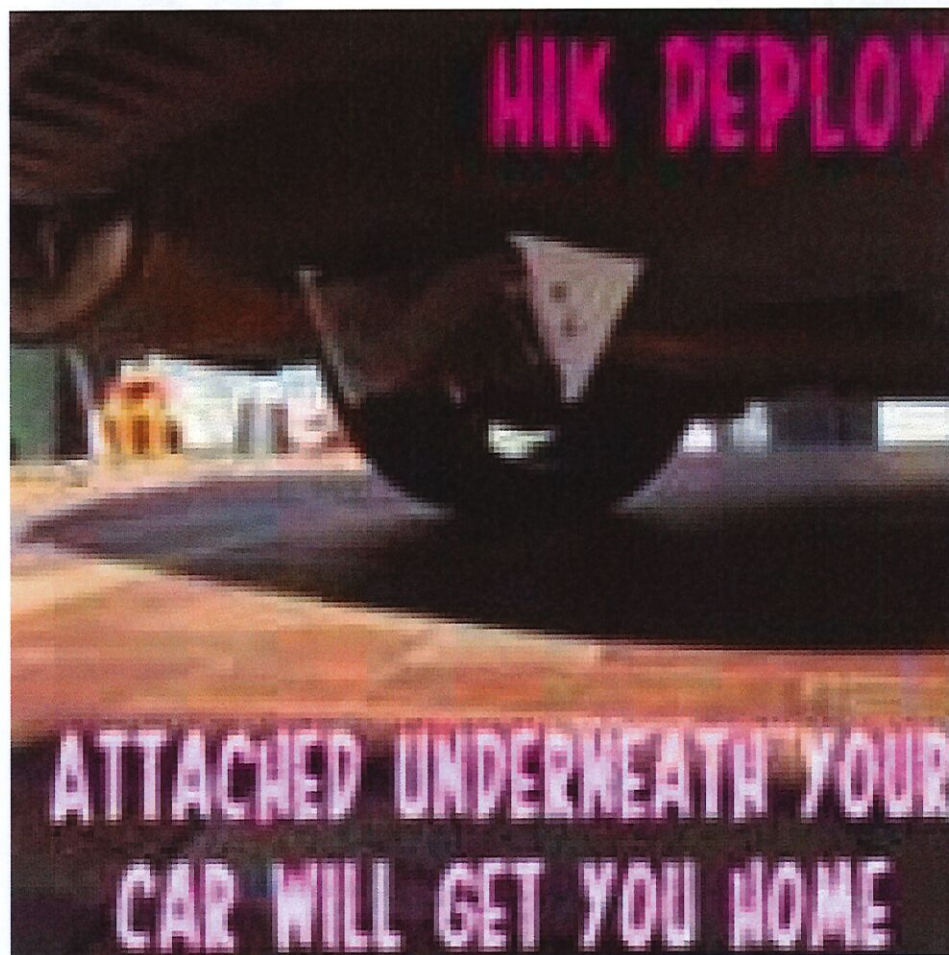
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Compliance prosecutions



Compliance prosecutions



Office Locations

Our office locations



BRISBANE
Upper Plaza
33 Charlotte Street
Brisbane Qld 4000

CAIRNS
Ground Floor
William McCormack Place
5B Sheridan Street
Cairns Qld 4870

HERVEY BAY

MACKAY
Level 5
44 Nelson Street
Mackay Qld 4740

MAROOCHYDORE
Ground Floor
Mike Ahern Centre
12 First Avenue
Maroochydore Qld 4558

ROCKHAMPTON

SOUTHPORT
7 Short Street
Southport Qld 4215

TOOWOOMBA
137 Herries Street
(corner of Neil Street)
Toowoomba Qld 4350

TOWNSVILLE
4th Floor
State Government Building

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million residents in QLD. It works with other consumer

protection agencies to regulate 2.2 million businesses

throughout Australia. In addition to the security industry

OFT regulates the property, motor dealing, tattoo,

auction, second-hand dealing, pawn broking, debt

collecting, inbound tourism, introduction and fitness

industries with specific legislation, and the Australian



Security Providers Association of Australia Limited (SPAAL)

Security Provider Compliance











Grant Rasmussen
Manager
Marketplace and Financial Investigations
Office of Fair Trading

12 September 2019

Disclaimer - The below reports have been drawn from OFT's database as at a point in time and therefore may vary over time. These figures are provided as a guide only for internal reporting and should not be taken as actual or quoted in formal reporting or for general distribution.



Licence holders

Category/Industry	Classes	Licences at 01-01-2019	New licences issued in 2017-18
 Chattel Auctioneer	3	1482	85
 Debt Collection	4	510	77
 Inbound Tourism	1	97	22
 Introduction Agent	1	13	6
 Motor	4	8137	1155
 Pawnbroker	1	7	3
 Property	10	47,333	7236
 Second-Hand Dealer	2	1278	239
 Security	20	68,345	23,064 (including 4463 temporary licences for Commonwealth Games)
			

Enforcement strategy



Safe communities



Fair communities



Responsible communities

Justice for all through safe, fair and responsible communities

INITIATIVES

ACTIONS



Effective proactive and reactive compliance activities, deploying resources where they are most needed.



Quarterly results that meet or exceed targets.
Appropriate enforcement action where breaches are identified and proven.



Work with other jurisdictions to achieve a consistent Australian.

Nationally agreed education, compliance and enforcement operations are undertaken.



Consumer Law regulatory framework including:



- integrated compliance approach on key areas of focus
- integrated and coordinated development of education materials
- consistent approach to enforcement.



Maintain and improve consistent consumer product safety and information standards in conjunction with other jurisdictions.

Safety hazards in consumer goods are identified and addressed including through complaint investigation and scheduled proactive compliance.



Education and information activities are undertaken to help ensure industry is aware of its obligation to provide consumer goods that meet or exceed requirements and consumers are aware of the correct way to use products.



Maintain and improve community engagement strategies including

Consumers and business are aware of their rights and responsibilities.

Investigations Received

1 July 2018 to 30 June 2019

Investigations Received 1 July 2018 to 30 June 2019 by Source and Outcome for Security Providers Breaches						
INVESTIGATION SOURCE						
INVESTIGATION OUTCOME	COMPLAINT	COMPLIANCE CHECK	INTELLIGENCE	BUSINESS SERVICE	AUDIT REPORT	Total Inv
BELOW INVESTIGATION THRESHOLD			2			2
COMPLIANCE ADVICE LETTER SENT	3	6	36			45
INFRINGEMENT/S ISSUED		22	11			33
INSUFFICIENT EVIDENCE OF BREACH	8	13	66		2	89
NO EVIDENCE OF BREACH	1	39	27			67
NOT INVESTIGATED DUE TO OFT POLICY		1				1
OUT OF TIME		1	6			7
REF'D ELSEWHERE	3		2			5
REF'D FOR ADMIN. DISCIPLINARY ACTION/S			17			17
TRADER COMPLIANT FOLLOWING ADVICE		1	7			8
UNABLE TO LOCATE TRADER			12			12
WARNING/S ISSUED	4	48	75			127
Current Outstanding						0
Total	19	131	261	0	2	413



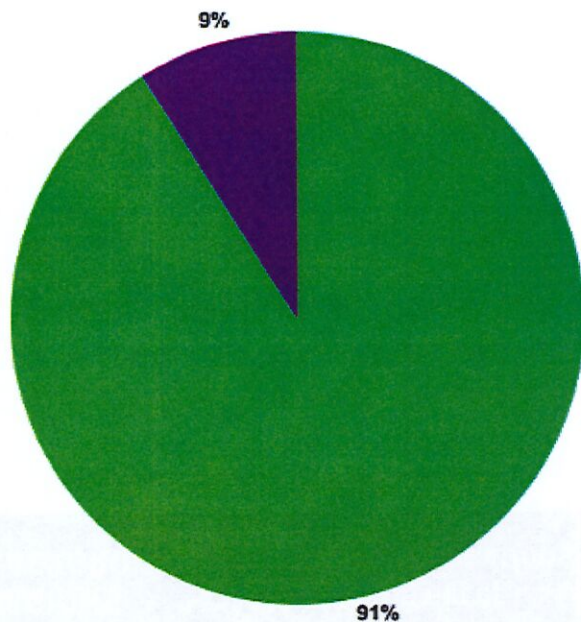
Queensland Police infringements issued 1 July 2018 to 30 June 2019

Infringements Issued by QPS for Security Provider Offences from 1 July 2018 to 30 June 2019			
Section	Offence Code	Infringement Description	Total
SECURITY PROVIDERS ACT 1993			
9 (1) (a)	SPA001	UNLICENSED SECURITY PROVIDER	3
47	SPA8005	LICENSED CROWD CONTROLLER, WHEN ACTING AS A CROWD CONTROLLER, FAILED TO WEAR PRESCRIBED IDENTIFICATION SO IT WAS CLEARLY VISABLE	2
SECURITY PROVIDERS ACT 1993 Total			5
SECURITY PROVIDERS REGULATION 2008			
12 (1)	SPR802	A LICENSEE MUST GIVE NOTICE OF ANY CHANGE IN DETAILS WITHIN 7 DAYS	2
18 (6)	SPR818	CROWD CONTROLL REGISTER MUST BE SIGNED BY CROWD CONTROLLER	36
19 (2)	SPR806	CROWD CONTROLL REGISTER MUST NOT BE ALTERED	1
22 (2)	SPR814	SECURITY FIRM MUST NOT REMOVE A PAGE FROM THE REGISTER, ERASE AN ENTRY IN THE REGISTER, ALLOW A PERSON TO ERASE AN ENTRY IN THE REGISTER	1
SECURITY PROVIDERS REGULATION 2008 Total			40
TOTAL			45

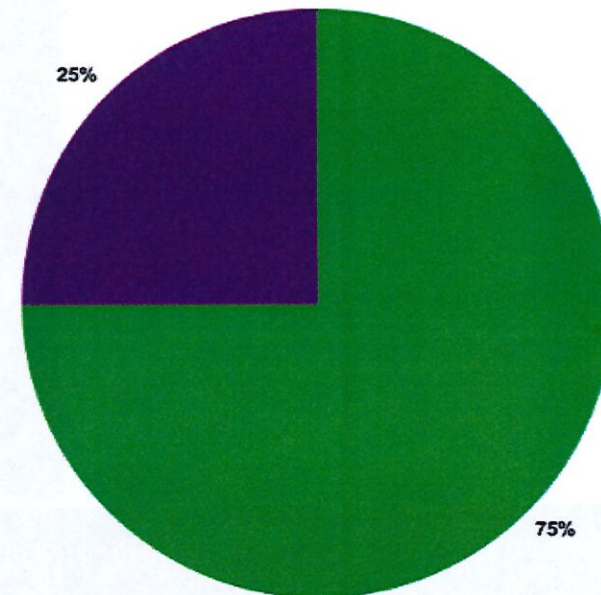


Security Industry compliance compared with other industry groups

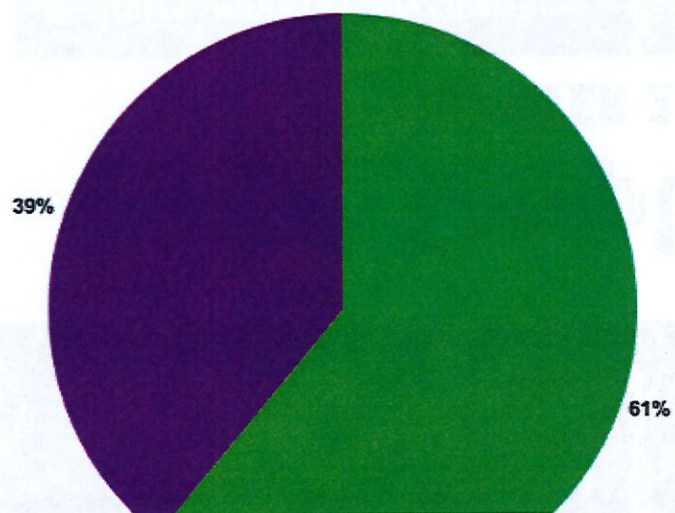
Security industry



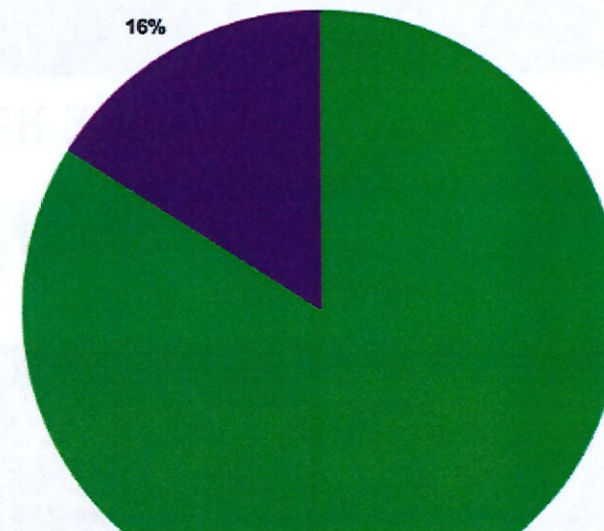
Motor Dealer industry



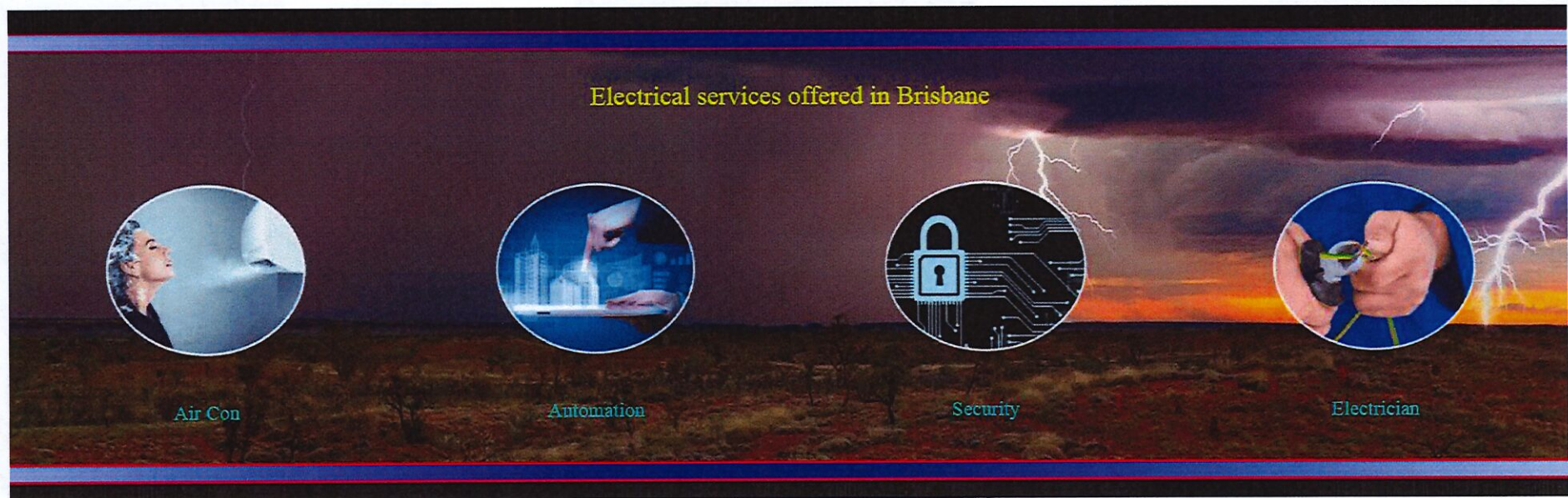
Secondhand Dealer industry



Real Estate industry



Compliance prosecutions



Compliance prosecutions

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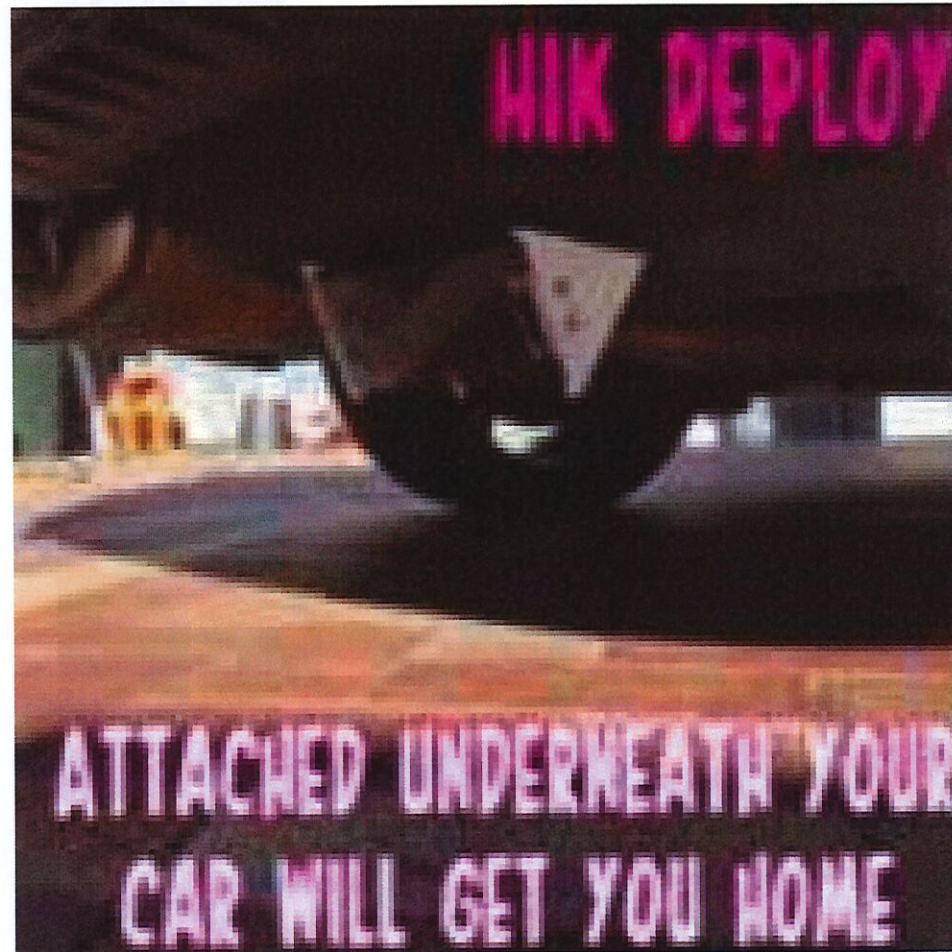


STA missile sales tripled

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Consumer Law applies to all businesses which are operating in Australia. Its incorporated in Queensland through QLD's Fair Trading Act.

3. Of the licensed industries regulated by OFT, security providers have the largest number of licence holders and the greatest number of licence classes. There are 20 classes of licence and over 47,000 licenses issued in QLD.

The property industry has the 2nd highest number of licence holders and licence classes. Motor dealers come in third. Pawn-broking is the least popular category with only 1 class of licence and 7 licenses issued.

4. When comparing the number of legal actions taken against the various industry types, security providers compare quite well. Real estate agents and resident



letting agents are both agent classes from the property industry.

i. Property industry ratio is 0.06 legal actions per

agent

ii. Motor dealing ratio is 0.043 legal actions per agent

iii. Security industry ratio is 0.008 legal actions per

agent

5. As you saw with the previous slide, there are a number of enforcement options available to OFT inspectors. OFT seeks safe, fair and responsible industries. It implements an enforcement strategy that utilises both reactive and proactive compliance activities, and seeks to utilise OFT's resources in the most effective manner. OFT works with



other regulators, consumer and community groups, and industry associations and experts to achieve its goal.

6. OFT utilises a pyramid type enforcement framework

when it identifies non-compliance. Its first option is to seek voluntary compliance as a first step and reserves higher level enforcement action for the most severe offending or the most recidivist traders.

- i. At the base level of the policy OFT seeks to educate and guide traders toward compliance in the majority of cases.
- ii. In the middle section OFT utilises lower level punitive sanctions when necessary.
- iii. At the top level OFT reserves civil actions and prosecutions for our most severe cases.



7. In the last financial year (1/7/18 – 30/6/19) there were 413 security provider investigations received, 19 as a result of complaints being received, 131 through compliance checks identifying evidence of non-compliance, 261 through intelligence information being received and 2 from audits. Those investigations resulted in 127 warnings, 33 infringement notices issued, and 17 tribunal disciplinary actions being undertaken.

8. The primary breach identified where enforcement action was taken is failing to return a suspended or cancelled licence within 14 days. This was the first year that this breach has reached such a high level and resulted from an operation where a training provider's accreditation was removed, which affected the licence status of



graduates from that training provider. Unless they retrained elsewhere those licence holders were required to return their security provider licences. The second highest, and the usual highest breach identified in other years, was failing to notify OFT of a change in details.

Unlicensed security providers are also a high breach category.

9. QPS continued to assist OFT with security provider compliance. QPS issued 45 infringement notices for various breaches identified during their inspections. The crowd controller register breaches were the highest in the number of breaches identified.

10. OLGR inspectors assist OFT with proactive compliance spot checks of crowd controllers in licensed venues. Last



year 510 compliance checks were recorded by OLGR inspectors with over 1100 entities checked. Non-compliance rates were 9% which is consistent with the non-compliance rates identified by OFT officers during security provider spot check operations.

11. So comparing the security provider industry compliance rates with OFT's other licensed industry group compliance rates, security providers actually do very well. Last year's stats show that the security provider compliance rate is the highest of all OFT's licensed industries.

- a. Security Providers had 9% non-compliance identified during proactive compliance checks



- b. Motor Dealers had 25% non-compliance identified
- c. Real Estate had 16% non-compliance identified
- d. Worst of all was second-hand dealers which had 39% non-compliance identified during OFT's proactive compliance checks

12. For the current financial year 1 July 2019 to 30 June 2020, OFT's proactive compliance program has 2 scheduled security provider operations in place requiring 183 compliance checks to be conducted. These checks will occur in the 2nd quarter October to December

- a. 1 - targeting security firms and officers that have previously been non-compliant or who





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Case management manual

2020



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FOR NOTING

For the purpose of the manual please note the following:

OFT officer – is an officer working for the OFT and:

- Fair Trading officers
- Case assessment officers
- Service Delivery officers
- Claims and Recovery officers
- Trust Account officers
- Compliance officers
- Inspectors

Senior officer – is a team leader, supervisor, manager or Director.

Case planning, Recording and Management tool (CPRM tool) – Use of the CPRM tool was approved by the OFT Executive Director to ensure State-wide quality assurance and consistency in investigation case management. All OFT Compliance officers and inspectors are to use the tool as suggested in this manual. Exemption from using the tool for lower level investigations must be approved by the divisional Director.

Motivators – located throughout this manual to provide officers with important tips, reminders and direction.

Hyperlinks – This manual contains hyperlinks which take the reader directly to Acts, agencies, policies and procedures. This manual also contains hyperlinks to internal processes, forms and templates located on the Department of Justice and Attorney-General (DJAG) intranet and the OFT intranet.

If intranet failure occurs, the current versions of these documents can be obtained from the OFT's Communications unit by emailing OFTComms@justice.qld.gov.au.

Online training modules – This manual is supported by online training modules available on the DJAG intranet and other resources available on the OFT intranet.

***The Human Rights Act 2019* (HRA)** – In August 2019, this manual was assessed as compatible with the requirements of the HRA.

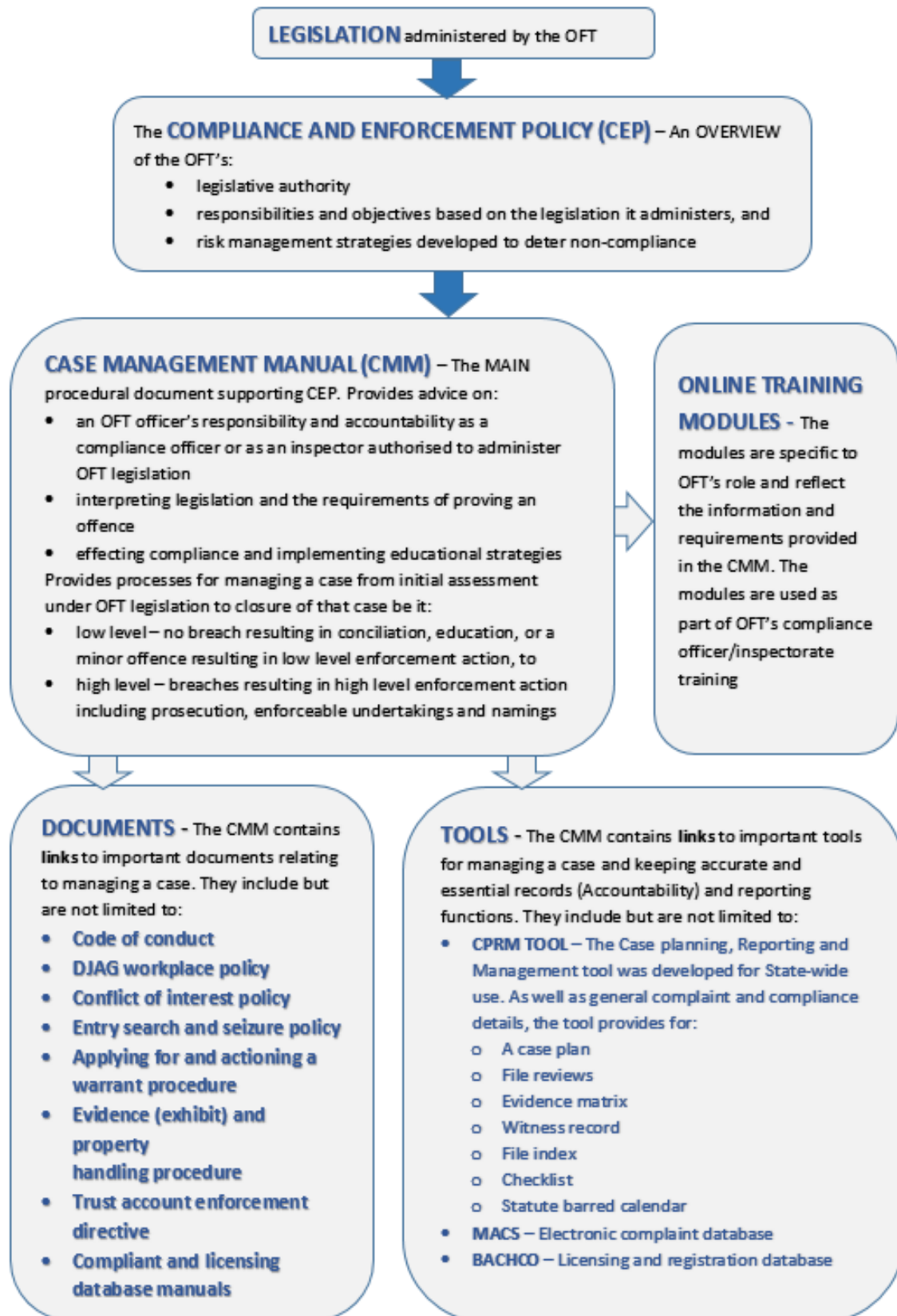
Case management manual approvals – As a new document, the 2018 Case Management Manual was approved by the Executive Director, OFT, on 23 May 2018.

This manual will be reviewed every two years by the Program Strategy and Development unit with the assistance of OFT operational divisions.

Significant changes will be brought to the attention of the Executive Management Team with final changes being approved by the Executive Director, OFT.



OFT's CASE MANAGEMENT FRAMEWORK



1 OVERVIEW AND OBLIGATIONS

1.1 PURPOSE

This manual provides procedural information and guidance to Office of Fair Trading (OFT) officers so the OFT can achieve its inquiry, educational and compliance objectives and operational practices to support the OFT's [Compliance and enforcement policy](#) (CEP).

The OFT administers over 60 pieces of legislation which can be viewed on the Queensland government website at [Fair Trading legislation](#). Only OFT officers appointed as inspectors can conduct compliance and enforcement activities under legislation administered by the OFT. Each inspector must have an appointment document authorised by the Chief Executive (CE) or the CE's delegate detailing the legislation under which the inspector is authorised to carry out functions of their position. The [Inspector appointment procedure](#) provides for appointing an inspector. [Annexure A](#) of this manual notes *OFT inspectors' legislative authority* and provides an example of the powers provided to appointed inspectors.

Any OFT officer carrying out a regulatory compliance function must adhere to the provisions of this manual and DJAG's Workplace policy. Failing to do so may breach the Queensland public service Code of Conduct resulting in disciplinary action.

1.2 THE OFT'S APPROACH TO COMPLIANCE, EDUCATION AND ENFORCEMENT

Recognising compliance encompasses a range of activities, both proactive and reactive, the OFT adopts a tailored approach. The OFT endeavours to deter non-compliance through educational trader visits, industry forums and by providing general compliance advice to traders. In cases of non-compliance, the circumstances of the breach, consumer detriment and/or public interest and any previous history of non-compliance are considered before determining a course of action. The guiding principle in every case should be that the action reflects the circumstances and seriousness of the offence.

1.3 OFT CASE ASSESSMENT, RESPONSE AND TRUST ACCOUNT UNIT

The OFT's Case Assessment, Response and Trust Account (CARTA) unit receives information from a number of sources including consumer complaints, external agencies, agents and trust account auditors, pro-active compliance activity and intelligence analysis. Assessment officers identify any breaches of legislation and consider factors to determine case complexity, degree of risk, resources required and the course of action to be taken.

1.4 OFT INSPECTORATE

The OFT's inspectorate is tasked with, among other functions, carrying out investigations on behalf of the OFT. Inspectors are responsible for gathering relevant evidence or information to determine the facts of a matter before making a recommendation on the next course of action. An investigation is not a trial.

1.5 OFT OFFICER RESPONSIBILITIES

The very nature of the work OFT officers carry out requires them to perform their duties beyond reproach. They must be aware they work in a culture of complete accountability, both internal and external, where other individuals or agencies can review or question a decision and/or action. Regulatory agencies such as the OFT must therefore act in a manner that is at all times lawful, ethical, safe and transparent.

OFT officers must maintain an open mind, discern fact from fiction and remain independent and objective throughout their duties. OFT officers are not on the side of any party to a matter but are an impartial fact-gatherer and decision maker. OFT officers must:



- be neutral
- remain aware of any power imbalance between disputing parties
- endeavour to understand the motivations and stresses that have led to the complaint, but not personally identify with the complainant
- prepare to be persistent in pursuing complaints that may be unpopular because of either their substance or the entities involved
- have the respect and confidence of all parties involved in a matter
- listen fully to both sides and thoroughly consider their arguments

The OFT is committed to ensuring its employees conduct all case activities in a lawful, ethical, safe, consistent and accountable manner. In this regard, OFT officers **are bound as follows regarding their legal and ethical responsibilities.**

1.5.1 As a public servant

[Public Service Act 2008](#) (PSA)

The PSA provides the operational framework for all Queensland government departments and emphasises the importance of impartiality and integrity. While OFT officers must abide by the Act as a whole, the following principles of public service management, as set out in section 25 of the PSA, are particularly relevant for OFT activities:

- providing responsive, effective and efficient services to the community and government
- maintaining impartiality and integrity in informing, advising and assisting the government
- continuously improving public service administration, performance management and service delivery
- managing public resources efficiently, responsibly and in a fully accountable way

Section 98 of the PSA requires the CE to ensure proper standards are met in creating, keeping and managing of public records. Therefore, OFT officers must ensure records created during a case are kept in accordance with the [Public Records Act 2002](#).

1.5.2 Ethically

[Public Sector Ethics Act 1994](#) (PSEA)

The PSEA expands on the broad principles of the PSA by defining ethical principles and obligations for all public servants. Section 4.2 of the PSEA declares the ethics principles fundamental to good public administration.

- Principle 1: Integrity and impartiality
- Principle 2: Promoting the public good
- Principle 3: Commitment to the system of government
- Principle 4: Accountability and transparency

Sections 6 to 9 of the PSEA provide greater detail as to how all public officials are to put the principles into practice.

1.5.3 Human rights

[Human Rights Act 2019](#) (HRA)

The HRA commenced on 1 July 2019 at which time the Anti-Discrimination Commission Queensland changed its name to the [Queensland Human Rights Commission](#). The HRA became effective in its entirety in January 2020. OFT officers must make themselves familiar with the HRA which requires public entities, including government departments, to make decisions and act compatibly with human rights. The HRA respects, protects and promotes the inherent dignity and worth of all human beings, especially the most vulnerable in our community.



1.5.4 Conduct

[Code of Conduct \(Qld\)](#)

The Code of Conduct reiterates the obligations set out in the PSEA and provides guidance as to the course of action in many situations. For example, conflicts of interest and personal conduct in and outside the workplace.

Each OFT officer is responsible for ensuring they are familiar with the code and that they behave in a manner that reflects these standards. OFT inspectors have powers not afforded to other government employees. What an inspector says or does in the course of an inquiry can impact heavily on the OFT and the department, so they may face greater scrutiny than other OFT officers. As such, inspectors must ensure they understand the code and always maintain the highest standard of behaviour. An employee who breaches the code may face disciplinary action under the PSA.

OFT officers should also familiarise themselves with the OFT's [Client aggression policy](#) which raises awareness and understanding of potential conflict in client relations and provides strategies and techniques for dealing with conflict.

[DJAG's Workplace policy](#)

DJAG's Workplace policy provides a clear understanding of the standard of behaviour required from DJAG staff as an employee of DJAG. Section 3.1 e of the Code of Conduct notes public servants will adhere to the policies, organisational values and organisational documents of the employing agency.

The DJAG Workplace policy reinforces a public servant's responsibilities under the code of conduct and legislation noted in this chapter. The policy also sets out DJAG's organisational values and standards of behaviour for both within the workplace and as an individual. All OFT officers should make themselves familiar with the policy.

1.5.5 Privacy

[Information Privacy Act 2009](#) (IPA)

All OFT officers are obliged to respect confidentiality and privacy for all individuals who are entitled to expect that any information they provide to the OFT, especially personal information, remains private and secure.

The Queensland Government operates a privacy scheme based on 11 national privacy principles contained in the IPA.

- Principles 1, 2 and 3 address what personal information the OFT can collect, how its collected and what notice is to be given to the person information is collected from
- Principle 4 deals with how the OFT must store personal information securely and protect it from loss, unauthorised access, use, modification, disclosure or misuse
- Principles 5, 6 and 7 address how people can access and correct the personal information OFT holds about them
- Principles 8, 9, 10 and 11 address how that personal information can be used and disclosed

The department's [information privacy](#) publication provides for the department's policy on privacy and how to protect personal information. The OFT's [Disclosure of complaint related information guide](#) and its [Disclosure of trader related information policy](#) provide internal advice on dealing with the release of personal or commercial information collected by the OFT.

1.6 ACCOUNTABILITY AND RIGHT TO INFORMATION

The department's [Ethical Standards unit](#) as well as a number of external agencies, including the [Queensland Ombudsman](#) and the [Crime and Corruption Commission](#), can investigate complaints about the actions and decisions of the OFT which may result in disciplinary action,



including dismissal of an officer. Therefore, ensuring OFT officers perform their duties in accordance with legislation, policies and procedures is imperative.

1.6.1 [Right to Information Act 2009](#) (RTIA)

Under the RTIA every person has a legally enforceable right to access official documents held by government agencies, subject to the exemptions and exclusions outlined in the RTIA. The RTIA also specifies the requirements for document handling by those agencies. These can be outlined as:

- gives a person a right to apply for access to documents held by government agencies
- gives a person a right to apply for amendment of personal information held by government agencies
- requires government agencies to publish information about their structure, what they do and what documents they hold

The RTIA applies to Queensland Ministers, Queensland Government departments, local councils and most semi-government agencies and statutory authorities. It does not apply to documents held by the Commonwealth Government or interstate government agencies.

Persons wishing to request information are required to contact the department's [Right to information and privacy unit](#) prior to making an official request in order to refine the scope of information required and to avoid unnecessary delays in processing.

1.7 CONFLICT OF INTEREST

All OFT inquiries must be conducted impartially. An OFT officer must not have and must not be perceived to have, a conflict of interest regarding any complaints, parties, actions or procedures as part of their duties.

Generally speaking, there can be no confidence in the outcome of a matter when the process is tainted by actual or perceived conflict of interest. In such situations, questions about the integrity of the process are often impossible to answer satisfactorily.

Allegations of conflict of interest must be based on something substantial or particular to a matter, such as whether the OFT officer:

- has a personal or financial relationship with the person who made the complaint, the person who is the subject of the complaint, or anyone else identified in the allegations
- stands to personally benefit or suffer from any findings about a person connected to an inquiry
- has any personal or professional biases that may lead others to conclude they are not an appropriate person to investigate a matter
- was directly involved in developing or approving policies, procedures or practices that are the subject of the complaint

It may sometimes be difficult to identify a conflict of interest. An OFT officer may, from time to time, find they have a prior connection with a person associated to an inquiry. This should be immediately reported to a senior officer for documentation and management.

The department's [Conflict of interests policy](#) and the [OFT's Conflict of interest policy](#) provide guidance in identifying and managing actual or potential risks of conflicts of interest arising during duties as a public officer.



1.8 THE SELF TEST



OFT officers may find the SELF test helps determine if they should undertake a particular course of action. The SELF test comprises four separate questions:

- **Scrutiny** - will my actions withstand scrutiny?
- **Ethical** - are my actions ethical?
- **Lawful** - are my actions lawful?
- **Fair** - are my actions fair to everyone concerned?

Inspectors should answer **yes** to all questions. If they cannot, they must not take the proposed action but reassess and reconsider the case and their actions



2 UNDERSTANDING LAW

2.1 INTRODUCTION

Legislation can be complicated and sometimes difficult to understand. However, the more OFT officers embrace legislation the easier it becomes to interpret against OFT's functions. This section looks at the different types of law, how they affect each other and some basic rules to apply when interpreting legislation including things to consider when attempting to prove an offence has been committed.

A legal system is a framework of rules and agencies regulating a society. These rules and agencies organise and regulate:

- the activities of individuals with one another
- the activities of the State
- the State's relationship with individuals

Each State has power to make its own laws directly and since 1901, the federal government has had power to make laws for the whole of Australia (Commonwealth).

In Australia there are two important types of law; statute law and common law. Parliaments, and the bodies authorised by parliaments (including local governments), make laws by legislation (statute law). The courts of law may also declare the law by deciding cases that become authoritative precedents (common law, also known as case law).

2.2 STATUTE AND COMMON LAW

2.2.1 Statute law

Statutes are laws passed by Parliament. They are sometimes known as Acts or Acts of Parliament. A draft Act is called a Bill. A Bill must pass through Parliament and receive royal assent (approval by the Governor-General or the State Governor) before it becomes an Act.

Acts do not necessarily commence as soon as they are passed. They typically commence 28 days after receiving royal assent, though an alternate date may either be specified in the Act itself or published in the government gazette. Also, different parts of an Act may commence at different times. An Act becomes law when it wholly or partially commences.

An Act is identified by name, date and jurisdiction. Examples include the *Family Law Act 1975* (Cth) and the *Fair Trading Act 1989*. The name usually indicates its content, the date is the year it passed through Parliament (which is not necessarily the year it commenced) and the jurisdiction is the Parliament that passed it.

Most Acts have a definitions section at the beginning or a schedule at the end called the dictionary, to explain what is meant by words and phrases used in the Act. Definitions may also be noted directly in sections and chapters of an Act.

Definitions are **crucial** in understanding Acts. If a definition for a word or a phrase is provided in an Act, it **overrides any other definition** given for that word or phrase regardless of where that other definition was derived from for example, in a legal dictionary.

Parliament can repeal (remove) or amend (change) an Act. Therefore, OFT officers should ensure the legislation they are administering is current. There are also laws covering administrative details and other matters not easily dealt with by the more general terms of an Act. These are often called Regulations, but can have other names including rules, ordinances and by-laws. They are collectively known as delegated or subordinate legislation and always relate to the Act under which they are made. Delegated legislation such as Regulations need to be considered, along with the Act, when researching the law.



2.2.2 Common law

Common law is the **unwritten law**. These laws are based on judges' decisions and custom, as distinct from statute laws. Judges decide each case and give reasons for their decisions or judgements which are published in books called law reports. The accumulation of judges' decisions over many years is called the common law.

Common law is based on the idea of precedent that courts should generally treat similar cases alike and follow the legal principles that guided past decisions. Judges compare case situations and apply an established principle, or develop a new but reasonably similar principle for new facts. This approach to decision-making is called the doctrine of precedent. Some of the rules that make up the doctrine of precedent in Australia are as follows:

- Judges and magistrates in hierarchically lower courts cannot establish their own precedents, but must follow the precedents established by superior courts
- Most courts are not bound to follow their own previous decisions, although they are generally expected to do so
- The High Court is not bound to follow its own decisions and may overrule its past decisions, removing them from the body of precedent
- Decisions made by courts outside Australia are not binding on Australian courts, though Australian courts may refer to them for guidance or comparison in unusual or difficult cases
- A court always gives reasons for its decisions so that cases with similar but not identical facts can be decided differently; that is, it can be distinguished
- The only superior court decisions that contribute to the body of precedent are those dealing with a new set of circumstances that are sufficiently different from past cases such that they warrant a new reason for a judicial decision
- Cases contributing to common law must be recorded in recognised law reports

Judges continue to develop the common law in areas not covered by legislation or where legislation is unclear or disputed.

2.2.3 How statute and common law affect each other

Statute law (an Act) is binding on all courts and judges. Judges cannot overrule or challenge the validity of an Act, except for judges in the High Court. Acts can be drafted in very broad or ambiguous terms. In these cases, courts must decide their meaning and the court's interpretation becomes part of the common law in that area. If an Act and a common law rule apply to the same area and they are inconsistent, the Act overrides the common law.

If the common law creates a new principle, Parliament can overrule it or vary it through an Act. An example of this is the High Court decision in the Mabo case. The High Court ruled that as it existed, the common law of *terra nullius* (land belonging to no one) inherited by Australia upon English settlement, violated international human rights and denied the historical reality of indigenous people's dispossession. The subsequent *Native Title Act 1993* (Cth) was passed to recognise that indigenous Australians have prior claim to lands.

2.3 CRIMINAL LAW

The Australian Macquarie dictionary defines a crime as being '*an act committed or an omission of duty, injurious to the public welfare for which punishment is prescribed by law*'. In most criminal actions there are two aspects which must be proved:

- **Actus Reus** (The physical element) – Actus reus is Latin for 'guilty act.' The actus reus of any crime encompasses all of its individual elements except for the accused person's mental state. These elements vary depending on the crime, though they typically include the alleged act or omission and the general state of affairs. Certain elements of the state of affairs may not be caused by an accused person, so OFT officers should be familiar with the legislated definitions of relevant crimes



- **Mens Rea** (The mental element) – Mens rea means the ‘guilty mind or intention’. Mens rea is an essential element in every criminal offence except for strict (the possibility of a defence) or absolute (no defence possible) offences. All a prosecutor needs to prove in strict or absolute offences is that the defendant:
 - committed the actus reus, and
 - acted voluntarily

Most criminal proceedings resulting from OFT inquiries involve ‘strict liability’, which means the prosecution does not have to prove mens rea. Nevertheless, sections containing words such as ‘intention’, ‘knowledge’ or ‘belief’ require the prosecution prove mens rea as well as actus reus.

2.4 PROCEDURAL FAIRNESS (NATURAL JUSTICE)

Procedural fairness is a legal safeguard for an individual whose rights or interests are being affected by an inquiry. It is an obligation and an integral element of a professional investigation and can be beneficial to the OFT officer as well as the person under investigation.

The rules of procedural fairness should be followed at every stage of an inquiry, as they have been developed to ensure decision-making is fair and reasonable.

2.4.1 Rules of procedural fairness

The rules underpinning procedural fairness are simple:

- **Avoid bias** – To avoid allegations of bias, OFT officers should not discuss or engage in idle conversation about any aspect of an inquiry. Being unbiased is a crucial aspect of procedural fairness. Bias can arise from:
 - being partial toward one party over another
 - being closed-minded (not listening/taking into account what someone has to say)
 - having a conflict of interest

The law goes beyond looking for actual bias. It also looks for the perception of bias. The law will look at the person doing the investigation and ask: *‘Is there anything about the person, or the conduct of the person, that might give rise (in the mind of a fair-minded member of the public), to a reasonable suspicion that the person may draw a conclusion based on self-interest?’*

If so, the law will generally state that the person **should not** conduct the inquiry.

During an inquiry, circumstances may transpire to increase the potential for bias. OFT officers **should recognise such potential bias**, inform their supervisor or manager (senior officer) about it as soon as possible, prepare fully documented reasons for the bias and remove themselves from the inquiry.

- **Give a fair hearing** – Procedural fairness requires a decision-maker to listen to and take into account people’s point of view on matters adversely affecting them. An inquiry can affect an individual in many ways, but particular consideration should be given to their reputation and their employment. In order for an inquiry to comply with the law, it is usual to seek out a person’s version of events and give them a chance to comment on any facts that might be detrimental to them. Depending on the circumstances of the investigation, procedural fairness may require:
 - informing people about the substance of any allegations against them or grounds for adverse comment about them
 - giving people a reasonable opportunity to put their case forward, whether in writing, at a meeting or otherwise
 - hearing all parties to a matter and considering submissions from them
 - making reasonable inquiries before making a decision
 - ensuring no person decides a case in which they have a direct interest



- acting fairly and without bias
- conducting the inquiry without undue delay

The time when a person is informed of allegations against them will depend on the circumstances of each case. In the absence of clear statutory direction regarding the provision of procedural fairness, the Crime and Corruption Commission (CCC) suggests the following basic principles be followed:

- Initial inquiries or the early stages of an investigation may reveal there is no case to answer. In these instances, it may not be necessary to inform the person at all, particularly if they are unaware of the inquiry. This may prevent the person from suffering unnecessary stress. However, they may need to be told if anything is to be recorded on their file.
- OFT officers will often need to interview the person being investigated. In these cases, they should delay informing the person about the substance of the allegations until the interview as there is a risk they could:
 - destroy documents
 - modify records
 - produce post-dated records
 - collude with other people being investigated
 - pressure or influence a vital witness (for example, a subordinate of the person being investigated)

The CCC also suggests that in circumstances where a complaint alleges wrongdoing, but the identity of the alleged wrongdoer is unknown, no-one should be notified of the allegations. **However, how rules of procedural fairness apply will depend on the circumstances of each case.** For example, where unknown itinerant traders are taking advantage of vulnerable consumers, OFT can consider section 11 of the FTA which provides the Commissioner with powers to disseminate information to the public to protect their interests if considering the acquisition of goods or services.

2.4.2 Accessing documents

Natural justice does not require the subject of an inquiry to be given access to every document seen by, or information given to, the OFT. However, a person must be made aware of what he or she is accused of and by whom, with sufficient accuracy to be afforded the opportunity to respond to the allegations.

Therefore, each case should be considered on its merits, with particular weight being given to the information or documents that would best enable the person to answer the allegations against them. It may not be necessary to disclose the name of the complainant if the evidence relied upon does not come directly from the complainant. It will depend upon the nature of the allegations and the grounds or evidence relied upon.

2.5 BASIC RULES OF STATUTORY INTERPRETATION

The wording of an Act can sometimes be unclear. This can make statutory interpretation difficult. However, there are some rules, resources and methods that make the job easier.

2.5.1 Legislation dictionary

When seeking clarification on the meaning or definition of words, the first reference is the main definition and/or dictionary contained in the specific legislation being considered. In some cases, legislative definitions may also be provided in a section, chapter, part or division of an Act. Legislation may also refer to other legislation for definitions or meaning of words.

2.5.2 [The Acts Interpretation Act 1954](#)

This Act of the Queensland Parliament was designed to assist in interpreting all of Queensland statutory legislation and provides definitions for many common terms and



phrases used in all pieces of statute legislation. Where a definition or meaning of a word cannot be determined in statutory legislation, this Act should be consulted.

2.5.3 Common law precedent

See 2.2.2 Common law. Precedence in a court of law is important. The decisions judges make in interpreting Acts of parliament can set precedents for future court matters.

2.5.4 Australian Macquarie dictionary

If definitions or meanings are not listed within the specific legislation or in the *Acts Interpretation Act 1954*, the meaning can be obtained by consulting the Australian Macquarie dictionary which has been adopted as the first non-legislated reference for terms concerned with legal interpretation or common meaning.

2.6 CRIMINAL OFFENCES

2.6.1 Definition of a criminal offence

The [Criminal Code Act 1899](#), provides for the Criminal Code (the Code) at Schedule 1. Chapter 1, section 2 of the Code notes an offence is defined as '*an act or omission which renders the person doing the act or making the omission liable to punishment is called an offence*'.

2.6.2 Classification of offences

Part 4 of the Code provides that offences are of two types:

- **Criminal** – offences comprising of crime, misdemeanours and simple offences. There are two classes of criminal offences contained within legislation administered by OFT.
 - Indictable (District Court)
 - Summary (Magistrates Court)Crimes and misdemeanours are known as indictable offences. This means that offenders cannot be prosecuted or convicted except upon indictment, unless expressly stated otherwise. An indictment is the document used to lay a charge against an accused person and to bring the trial before a court.
- **Regulatory** – offences in which the standard for proving culpability has been lowered so a 'mens rea' element is not required. The regulatory offences are defined in the [Regulatory Offences Act 1985](#).

The OFT does not have jurisdiction over the three current regulatory offences noted in the *Regulatory Offences Act 1985*. Legislation will usually have a section outlining the types of offences contained therein.

2.7 ELEMENTS OF AN OFFENCE

The concept of '**elements of an offence**' is **one of the most fundamental to statutory interpretation**. Elements are the sub-components of any offence and are sometimes referred to as points of proof. Before a court finds a defendant guilty of a criminal offence, the prosecution must present evidence that, even when opposed by any evidence the defense may choose to present, is credible and sufficient to prove beyond a reasonable doubt the defendant committed **each element** of the particular offence.

OFT officers should be familiar with the elements of any possible offences **at the start of an investigation**. This allows for effective investigation planning and helps determine what evidence will be required ahead of time. The **creation of a case plan**, inclusive of an evidence matrix, at the beginning of an investigation is essential to ensure all elements have been addressed. Developing a case plan is expanded on at Chapter 9 of this manual.



Elements of an offence can be characterised as “general” and “specific”. A successful prosecution must prove these elements **beyond reasonable doubt**.

2.7.1 General elements

There are three general elements to every type of offence.

Identity – The prospective defendant must be able to be identified. Some prosecutions have failed by the simple oversight of a witness being unable to identify the alleged offender.

If legislation administered by the OFT does not specify how to identify an entity, the *Acts Interpretation Act 1954* which provides definitions for different types of entities is to be considered to assist OFT and witnesses in identifying an alleged offender. For example, a corporation is considered to be a ‘person’ under section 32D of the *Acts Interpretation Act 1954*.

Date – OFT officers must be certain of the date of an alleged offence. This is because some matters may fall outside of the legislated time limit to take or commence enforcement action (statute barred). Events must also be put into their true context in order to establish that the conduct was in breach of an Act.

Jurisdiction/Place – Where the offence took place must be established early in any inquiry so it is clear which enforcement agencies carry lawful authority in that place. It can be difficult to determine the jurisdiction of matters related to internet trading. In these instances, consideration needs to be given to whether there is a nexus to Queensland for the OFT to take action or alternatively, if the matter needs to be dealt with on a national level.

2.7.2 Specific elements

Identifying specific elements of an offence involves examining each word or phrase in the legislated offence. For example, section 18 of the [Australian Consumer Law](#) (ACL) states:

A person must not, in trade or commerce, engage in conduct that is misleading or deceptive or is likely to mislead or deceive.

To prove a contravention of that section it is essential to prove these elements:

- ‘A person’
- ‘in trade **or** commerce’
- ‘engage in conduct’
- ‘that is misleading **or** deceptive **or** is likely to mislead **or** deceive’

Note the use of the word ‘or’. Where a section or sub-section contains the word ‘or’ this means only one of these needs to be proven, not all.

If a section contains the word ‘and’, this means having to prove **all** of the elements separated by the word ‘and’. For example, section 119 of the *Motor Dealers and Chattel Auctioneers Act 2014* states:

A person must not carry on the business of a motor dealer unless –

- (a) *the person holds a motor dealer’s licence; **and***
- (b) *the activities performed in the carrying on of business as a motor dealer are authorised under the person’s licence.*

This means that each element of both (a) and (b) must be entirely true for a motor dealer to not be in breach. Whenever an OFT officer seeks to prove a breach of a section of legislation, they must divide the section into its elements and prove each of those elements. If any element cannot be proven, the offence cannot be proven.

2.7.3 Attempt to commit an offence

Even though a person has not actually committed an offence, they may still be prosecuted for the offence if it can be proven they attempted to carry it out. There are specific criteria to meet before proceedings can begin against a person charged with attempting to commit an



offence. These criteria are contained in Section 4 of the Code. Chapter 55 of the Code also applies.

2.7.4 Parties to offences

Section 7 of the Code deals with situations where more than one offender (principal offenders) has committed an offence. Under this section, persons (as noted under the Code) who **take part in** committing the offence may be charged with actually committing the offence.

All potential parties to an alleged offence should be interviewed with consideration given to those persons' involvement when mounting recommendations. This will ensure any action taken is consistent, properly applies the law and removes any opportunity to suggest bias.

2.8 DEFENCES

An OFT officer must aim to prove each element of an offence, as there are a variety of conditions that can negate each element. These are known as defences. During the inquiry, not only should evidence be obtained to prove each element of an offence, but also gained to consider, address and overcome possible defences. An alleged offender may submit a defence at any time during an inquiry process. Therefore, OFT officers must pre-empt defences that may arise.

2.8.1 Criminal code defences

The Code applies to every person who commits an act or makes an omission in Queensland that, in either case, constitutes an offence.

Chapter 5 of the Code (Criminal Responsibility) provides defences to a person subject of an inquiry. For example, section 24 - Mistake of fact. This section states a person is not criminally responsible if the person commits the criminal act or omission under the honest and reasonable, but mistaken, belief in the existence of any state of things. OFT officers must make themselves fully aware of the defences available under this Code.

2.8.2 Defences under Acts

Defences can also come from a specific section of an Act. For example, section 158 (a) and (b) of the [ACL](#) provide defences to traders against allegations of wrongly accepting payment. Part 4-6 of the ACL notes available defences.

Another example is section 89 of the *Fair Trading Inspector Act 2014* (FTIA) which provides for 'reasonable excuse' as a defence for persons failing to assist inspectors with requirements under the FTIA during the course of an investigation.

2.8.3 Defence exemptions

It is paramount to consider the OFT legislation relevant to the inquiry to confirm any defence exemptions. For example, defences noted under section 23 of the Code (intention – motive) and section 24 of the Code (mistake of fact) are specifically exempt from the [Fair Trading Act 1989](#) (FTA) (section 97). In other words, a person who commits an offence under the FTA, cannot use the provisions under section 23 or 24 of the Code as a defence.

2.8.4 Summary

OFT officers must be aware of any defence provision contained within a specific Act, as well as the generic Criminal Code defences.

While the prosecution must prove their case beyond a reasonable doubt, the defendant is only required to prove a defence on the balance of probabilities. The onus is upon the defendant to establish the defence. A savvy OFT officer will know the defences that a person may claim and be prepared to test those defences during the investigation process. Where an officer is unsure of a defence status, they must seek advice from a senior officer.



Learn to love legislation

You will not only become a knowledgeable decision maker but also a competent OFT officer and inspector



3 CASE MANAGEMENT OVERVIEW

3.1 INTRODUCTION

The way an agency handles its core business functions can affect its reputation. Matters handled in a proactive manner will reflect positively on the organisation, reinforces good business processes, enhances an agency's public image and increases client satisfaction.

The OFT will consider matters received and inquiries will be undertaken as necessary with either remedial, educational or enforcement action taken depending on the outcome of the matter.

3.2 RECORDING AND SECURING INFORMATION

The primary reason for recording information is to ensure a full and factual record of events is kept and to provide a permanent record of the information collected during a case.

Keeping accurate and comprehensive records demonstrates a high level of professionalism. Good records can prevent criticism upon later analysis. Courts and tribunals make decisions based on the evidence presented. Therefore, all information collected during a case must be carefully managed.

All information created during an inquiry is regarded as accountable information, so it must be properly recorded, secured, stored, and archived. OFT officers need to know where each piece of information is stored or filed at all times during and after case management.

3.3 OFT INFORMATION DATABASES

3.3.1 Marketplace Accreditation and Compliance System (MACS)

MACS is the OFT's electronic case management database which efficiently and effectively records:

- Complaints and enquiries, conciliation, investigation and enforcement action, and
- Compliance and education activities

MACS also provides:

- a register of licence holders and registered organisations
- the option for high severity notifications against licensees
- a comprehensive reporting tool

It is imperative OFT officers are proficient in the use of MACS and are fully aware of its capabilities. **ALL** aspects of a matter from receipt to conciliation, investigation, education, enforcement and finalisation **MUST** be entered into the MACS system. All compliance and enforcement officers must complete the Evolve MACS training available on the intranet. [MACS user manuals](#) are available on the intranet for the use of OFT officers.

Queries about access to and using MACS, can be directed to the OFT's Business as Usual (BAU) unit.



Accurate and comprehensive MACS **file notes are essential** to the proper conduct of an inquiry. Not only does it keep track of a matter, but is vital if the case has to be passed onto another officer to finalise. For the purpose of all internal and external review requirements it is necessary the OFT is able to demonstrate that all processes undertaken during an inquiry were appropriately recorded.



3.3.2 Business Names, Associations, Charities and Cooperatives (BACHCO) database

BACHCO is one of the OFT's licensing and registration receipting database. BACHCO can also be used to search a business name or corporation. However, the [Australian Securities and Investments Commission](#) (ASIC) officially registers all business entity names and therefore, OFT officers must also search ASIC for business and corporation entities especially for court purposes, where an ASIC business extract would be required.

OFT officers must make themselves familiar with the use of BACHCO and can speak to their senior officer regarding BACHCO training.

3.3.3 Claim and Debt Information Management System (CaDIMS)

CaDIMS is used by the OFT's Claims and Recoveries (C&R) unit to record and manage claims lodged against a claim fund set up under *Agents Financial Administration Act 2014* (AFAA). The system also allows OFT to manage the recovery of monies paid from the claim fund and create reports on claim fund matters.

3.4 CASE ASSESSMENT

The OFT's CARTA unit receives complaints and information for assessment under legislation administered by the OFT. This includes complaints and information received by OFT's regional offices which are forwarded to CARTA for processing.

In most instances, matters received and assessed for OFT action will be forwarded to the OFT office closest to the trader's location (if it's a Queensland trader). Exception to this practice is if the complainant has a complaint history and is known to a particular OFT office, or if a particular OFT office is already dealing with a specific trader. The unit will assess each matter and record the complaint or information details and their initial assessment advice in MACS.

CARTA's Trust Account officers assess and record matters arising from trust account issues. Agents managing a trust account and their appointed auditor must comply with a number of requirements under the AFAA and its regulations.

[Chapter 6](#) expands on the case assessment and categorisation of a matter.

3.5 CLAIMS AGAINST THE CLAIM FUND

A claim fund is established under the [Agents Financial Administration Act 2014](#) (AFAA) to compensate consumers who can prove a financial loss as a result of **specific** contraventions listed in the AFAA by certain licensed entities (relevant person).

A claim can become evident during a compliance check, case assessment or an investigation or where a claim is received directly by the OFT's C&R unit. If a claim is received directly by C&R it is referred for case assessment in the first instance then subject to the claim process and complaint process independently.

3.6 MINISTERIAL, OMBUDSMAN AND TRIBUNAL REQUESTS

Matters referred from the Minister's office, the Ombudsman's office or ordered by the [Queensland Civil and Administrative Tribunal](#) (QCAT) for OFT consideration, are required to undergo case assessment and categorisation then handled as per the assessment criteria. There is a reasonable chance the complaint relating to the request will have already been considered by OFT. Therefore, officers should first check MACS for any previous record.

These matters may be prioritised for completion if directed to do so by senior officers.



3.7 NON-ENFORCEMENT ACTION INCLUDING CONCILIATION

Where OFT makes an internal decision to decline a matter or no breach of legislation administered by OFT is established or the OFT cannot use its legislative powers, alternative action can be considered. This can include trader education, trader spot checks and/or conciliation.

Conciliation is an informal service provided free of charge to assist consumers and traders reach an outcome to an issue. Successful conciliation may also assist both consumers and traders avoid legal action in a court or tribunal. The OFT is not legislatively empowered to force a trader to participate in conciliation or provide any form of redress. Non-enforcement action is expanded on in [Chapter 7](#).

3.8 INVESTIGATION

Where a breach of legislation administered by OFT appears likely, an investigation can be actioned. An investigation is a fact-finding operation to gather and evaluate information in order to make an informed decision on the outcome of a matter. [Chapter 9](#) of this manual expands on how to manage an investigation.

3.9 ENFORCEMENT

The OFT aims to apply the most appropriate enforcement action in all cases. All circumstances must be taken into account when considering enforcement action with particular attention being paid to public interest and the principle of the more serious the alleged breach the stronger the enforcement action.

The OFT compliance model at [Annexure B](#) can be used as the principle guide for enforcement options against case categories. The purpose of enforcement is to:

- encourage compliance with fair trading legislation
- effectively address non-compliant behaviour
- encourage traders to apply corrective action for less serious breaches
- promote community confidence in the marketplace and in the OFT

3.10 ENFORCEMENT DURING UNFORESEEN CIRCUMSTANCES

Unforeseen circumstances such as natural disasters and unexpected emergencies (for example, the 2020 COVID 19 pandemic), may result in traders being unable to meet compliance requirements. Where a specific departmental directive on enforcement action has not been enacted in these circumstances, OFT officers are required to seek senior officer guidance for enforcement action in high-risk cases. In cases where low-risk non-compliance is identified, and before taking enforcement action, OFT's approach is to consider:

- the trader's compliance history
- risks to the community
- is enforcement action in proportion to the breach. Will it unfairly place financial hardship on the trader, and
- OFT's action is in the public interest and would be considered fair and reasonable in the circumstances

This approach can be likened to mitigating circumstances (see section 15.11.7). While no defence may be available to traders under the legislation, there may be mitigating circumstances.

OFT officers are to record official approval from a senior officer or the appropriate enforcement action delegate prior to taking non-enforcement action or 'measured' enforcement action which may be outside the standard enforcement approach.



3.11 OUTCOMES

The outcome of a matter must be conveyed by telephone if possible, to both the complainant and the trader. Where there is no consumer involved in a case and the outcome is that the OFT will be taking enforcement action against a trader, (for example, relating to trust account breaches), the trader must be contacted and advised of the outcome prior to enforcement action being taken. This also provides the trader with the opportunity for natural justice. All verbal outcomes must be followed up by written outcome advice either in letter or email form.



4 INTERACTION WITH CONSUMERS AS COMPLAINANTS AND TRADERS

The following provides for OFT communication **with a consumer** as the complainant (as opposed to the OFT being the 'complainant' in matters of non-compliance based on intelligence received or spot checks conducted - see section 15.7) and traders.

4.1 OFT OBLIGATIONS

First and foremost, OFT officers must be mindful of their obligations and responsibilities as a public service officer when engaging with another person. [Section 1.5](#) of this manual provides information and reference resources to ensure officers follow the code of conduct, act ethically and fairly and be mindful of a person's human rights and privacy.

OFT officers must ensure privacy requirements are met, especially in protecting 'personal information'. [Section 1.5.5](#) of this manual provides references to important information for ensuring privacy principals are met.

4.2 FOLLOWING RECEIPT OF A COMPLAINT OR INFORMATION FROM A CONSUMER

Consumer complaints are generally received and assessed in Brisbane by the CARTA unit. **Within 10 business days** of receiving a complaint, OFT must contact the complainant to acknowledge receipt of the complaint.

If a matter to be referred to a regional office is still with CARTA within 8 to 10 business days from receipt of the complaint, CARTA must contact the complainant before referring the matter to a regional office.

Where a regional office receives a matter from CARTA within 7 days of CARTA receiving the complaint, that regional office must contact the complainant.

Where resource or system problems occur, and the 10 business day deadline is nearing or expired, CARTA or regional officers assigned the matter must contact the complainant as soon as possible to apologise for any delay in responding. A valid reason for a delay in contact must be noted in MACS.

Acknowledgement advice must:

- confirm the issues raised
- include a MACS file reference number
- address expectations – explain OFT's role and jurisdictional boundaries
- request consent to provide a **precis** of the complaint to the trader if required. (No personal information must be shared).
- provide alternative agency information if not within OFT's jurisdiction
- advise of alternative avenues for compensation. For example, via a court or tribunal or for some matters, through the Claim Fund established under OFT legislation
- advise of the estimated timeframe for completion of a matter



The automated acknowledgment a complainant receives when lodging a complaint on-line IS NOT a substitute for contact within 10 business days from receipt of a matter. Also, 10 business days begins when OFT receives the complaint, NOT when the complaint is logged onto MACS or allocated to an officer.

If this initial contact is made by telephone, the officer must note a summary of discussions in MACS. Alternatively, an acknowledgment letter template is located on the intranet at [OFT](#)



[Standard correspondence templates for Case Assessment and Response team and Regional offices](#). If using the acknowledgment letter, a copy must be uploaded onto MACS.

Where a more detailed assessment is required, a senior officer may direct the matter be placed on hold for **another 10 business days** so it can be considered further. Where internal legal advice is sought, a matter will be given a **further 20 business days** for consideration.

In both instances the complainant **must be advised** within the initial **10 business day** period, of the circumstances for the delay. Once advice/instruction is received by the senior officer or legal advisor, the complainant must be updated **within 5 business days**.

A bring-up system must also be utilised to ensure advice is received within the timeframes noted above and the reason for any delay recorded in MACS.



Where potential **claims against the claim fund** are received or determined, OFT officers **must not** validate the claim nor any potential amount payable with the complainant. C&R will contact them directly with a claim determination.

4.3 INITIATION OF INVESTIGATION

If the matter is deemed for investigation, the **investigating officer receiving the matter** must contact the complainant **within 5 business days** of receiving the investigation file and;

- confirm the issues for investigation
- confirm OFT's role and its legislative boundaries
- reiterate alternative avenues for compensation
- confirm the estimated time frame for completion of the investigation
- (for inquiries of 30 days or more), inform the complainant they will be contacted on a monthly basis during the investigation

4.4 WHILE INVESTIGATION REMAINS ACTIVE

While an investigation remains open, the complainant is to be updated on the progress of the matter as deemed necessary but on **at least a monthly** basis. This is particularly important for maintaining open communication and transparency and uphold an inspector's responsibility to keep a complainant informed.

4.5 CONTACT WITH TRADERS

To enact the requirements of natural justice OFT officers must also contact traders to discuss a complaint or concern as part of the case management processes.



It is **never** appropriate to send a complainant's personal information or their full complaint to a trader. The OFT officer is to prepare a precis of the complaint details to the trader. The information provided to a trader will need to be considered on a case by case basis and the complainant's approval **must** always be obtained before sending the information to a trader.

4.6 UPON REACHING AN OUTCOME

Upon completion of a matter, the complainant must be contacted **via telephone where possible** and informed of the findings. This is followed by a written outcome response. In complex or extended cases, visiting the complainant in person to discuss the outcome is preferred before sending out a written outcome response. However, this may not always be practical. Following any verbal advice, the complainant is to be advised in writing of the:

- issues originally confirmed and subsequently considered
- Act and section (title and reference) of the substantive breach (if investigated)



- Case findings and the basis upon which they are supported
- type of enforcement action (if taken)
- the penalty and fine amount (only if applicable)
- contact name and number of the OFT officer, inviting contact if the complainant wishes to discuss the matter further

Outcome advice on matters referred for investigation and where no breach could be established from an inquiry, must be provided to the complainant by the investigating officer, the file closed by that investigating officer following senior officer approval, and the case finalised within that unit.

The OFT's [Disclosure of complaint related information guide](#) provides the guidelines for the release of case file information to complainants, third parties and other agencies.

Traders must also be contacted by telephone to discuss an outcome to ensure they understand the how and why the outcome was achieved particularly if enforcement action was taken. This is followed by a written outcome response.

4.7 SUSPENDING CONTACT WITH A CONSUMER OR A TRADER

On occasion, complainants may be unreasonable in their expectations of the OFT or dissatisfied with action taken. Also, complainants unwilling to accept decisions may continue to demand further action on their complaint.

Likewise, traders may also become unreasonable and resentful of OFT actioning legislative enforcement options they believe are unnecessary or unjust.

Where OFT review options have been exhausted (see section 5.6 and 5.7), the OFT should consider suspending contact with the person.

Complainants and traders may be rude, aggressive or abusive in an attempt to influence or sway the OFT's position. Sometimes, dissatisfied complainants and traders resort to flooding OFT with telephone calls, emails or written correspondence noting their dissatisfaction.

Unreasonable complainants and traders place a heavy demand on OFT's operational resources and require careful management. In some cases, it is appropriate to discontinue or suspend further contact in order to maximise the efficient use of resources devoted to investigating complaints and to protect the interests of the entities or any third party.

When a suspension or discontinuance of contact is contemplated, the OFT officer must seek the **written approval** from their senior officer prior to providing the complainant or trader with written notification advising them of the suspension or discontinuation of contact on the matter.

It is not acceptable for OFT officers to be subjected to abusive or threatening behaviour during the course of their duties. If this does occur, OFT officers are encouraged to report these matters to their immediate senior officer for consideration of the best course of action. This may range from discontinuing all contact with the person to lodging a complaint to the police.

OFT officers should make themselves familiar with the OFT's [Client aggression policy](#) which provides helpful information on managing client aggression.

4.8 RECORDING CONTACT WITH CONSUMERS AND TRADERS

ALL contact with consumers and traders must be recorded in MACS file notes and written contact uploaded to external documents.





Copying and pasting all, or part of, documents, communication emails, letters etc. into MACS file notes can not only result in lengthy file notes, but more importantly, may not meet OFT's audit requirements for recording complaint related data and furthermore, may **not** be acceptable as evidence in a court of law.

While uploading **small** extracts from documented information into MACS file notes is acceptable, officers **must ALWAYS** upload a full copy of documentation into external documents. MACS File notes are to be concise but informative and refer the reader to MACS 'external documents' for full copies of information. E.g. Date, time, email outcome advice to consumer. See external docs.

