

Harm Prevention and Regulation Office of Fair Trading

2023-24 Regulator Performance Report

Introduction

This report has been prepared to meet the Office of Fair Trading's (OFT) reporting obligations under the Queensland Government's Regulator Performance Framework and the Queensland Audit Office's Good Regulatory Practices framework. The OFT aims to deliver a fair and safe marketplace for Queensland consumers and businesses. We do this by:

- supplying information and advice about consumer and trader rights and responsibilities
- enforcing consumer protection laws
- helping resolve marketplace disputes
- licensing a range of occupations
- investigating unfair business practices
- prosecuting unscrupulous businesses
- supplying information about product safety
- registering incorporated associations, charities and cooperatives.

Model practice 1: Ensure regulatory activity is proportionate to risk and minimises unnecessary burden

Supporting principles:

- a proportionate approach is applied to compliance activities, engagement and regulatory enforcement actions
- regulations do not unnecessarily impose on regulated entities
- regulatory approaches are updated and informed by intelligence gathering so that effort is focused towards risk.

Evidence to support alignment with regulator model practice

The Office of Fair Trading's (OFT) [Compliance and Enforcement Policy](#) (CEP) outlines our approach to promoting confident consumer participation in the marketplace and maintaining, encouraging and enforcing trader compliance with the laws we administer.

We obtained information about possible breaches of consumer laws from a range of sources including consumer complaints, other government agencies, proactive compliance activity, intelligence analysis, industry associations and from the media. This information informed our approach to proposing, developing, and operationalising risk appropriate responses.

We developed and published our [Regulatory Priorities for 2024-25](#). These priorities were developed having considered emerging marketplace trends, our own compliance data and consultation with community, business and government stakeholders. The document outlines our regulatory philosophy, the discretion we may exercise in how we direct our resources, our focus areas in 2024-25 and the priorities we will always consider important.

Our proactive compliance, known as the [Proactive Regulation of Industry and Marketplace Entities](#) (PRIME) program, is developed and conducted each year based upon identified risks and marketplace analysis. Higher risk industry sectors and traders receive greater focus, with the aim of maximising compliance and industry education outcomes. During 2023-24 more than 2,656 proactive checks were conducted on industries regulated by the OFT, identifying 375 matters requiring investigation.

We use a range of activities and powers to achieve compliance with the law. These include:

- educating businesses and consumers
- working with industry groups to promote good practices
- licensing or registering participants of some industries and the not-for-profit sector
- receiving and considering complaints
- undertaking investigations and compliance activities, and
- taking appropriate enforcement action.

We ensured our approach to potential breaches of fair trading laws was proportional to the risk involved. Generally, traders will comply, or seek to comply with their obligations. Where genuine attempts at compliance were made, we focused on educating and informing traders. Where there was evidence of serious non-compliance or systemic breaches, we imposed the full force of the law. The impact on consumers and the marketplace, the compliance history of the trader, the seriousness of the offence, and the sufficiency of admissible evidence are key considerations in determining the appropriate enforcement action.

We continued to work closely with other Australian consumer protection regulators to administer the Australian Consumer Law (ACL) under the 'one law multi-regulator' model, ensuring a consistent application of the law across the country, providing certainty to traders about their obligations while reducing their risks and compliance costs.

From 1 July 2024, changes commenced to improve transparency and accountability in incorporated associations and to make dispute resolution simpler. These changes are the final tranche of a set of reforms for this sector, which previously saw a reduction in red tape and more information being made available to association members. From 1 July 2024, incorporated association management committees must disclose at their Annual General Meeting remuneration paid and any benefits given to committee members, senior staff, and their relatives.

Also from 1 July 2024, to resolve internal disputes incorporated associations need to either follow the grievance procedure in the model rules set out in the Associations Incorporation Regulation 1999 or include a compliant grievance procedure in their own rules. Historically, members involved in disputes with their associations have had few options other than to take action in the Supreme Court, which can be a daunting and costly exercise. The new requirements provide a process for the self-resolution of disputes that cannot be resolved internally.

In 2023-24 OFT established the Strategic Review Committee (SRC) which includes representatives from OFT, the Office of Liquor and Gaming Regulation, Queensland Worker Screening Services, and the department's Regulatory Policy unit. The SRC provides strategic oversight and guidance for matters of significant regulatory concern. It also allowed us to regularly assess policies and procedures and, where necessary, authorise amendments to meet our statutory obligations and community expectations.

In 2023-24 OFT continued to develop the Compliance and Licensing Management System which will replace legacy licensing and compliance applications with a new modern solution. The consumer complaint and conciliation functionality of the new system was released in 2023 and further releases over the coming years will enable more effective and efficient collection of data and intelligence analysis.

Model practice 2: Consult and engage meaningfully with stakeholders

Supporting principles:

- formal and informal consultation and engagement mechanisms are in place to allow for the full range of stakeholder input and Government decision making circumstances
- engagement is undertaken in ways that help regulators develop a genuine understanding of the operating environment of regulated entities
- cooperative and collaborative relationships are established with stakeholders, including other regulators, to promote trust and improve the efficiency and effectiveness of the regulatory framework.

Evidence to support alignment with regulator model practice

We actively engaged with our stakeholders including consumers, traders, regulated entities, government bodies and representative organisations. Throughout the year we undertook a range of stakeholder engagement activities including speaking at forums and events, presentations, stalls, meetings, and visiting traders at their premises to provide one-on-one information and advice.

We included Queenslanders living in rural and remote areas in our engagement activities through our annual outreach program. Our officers took OFT services on the road, gave information sessions to schools, community groups and service organisations, visited local businesses and meeting with organisations and service providers to discuss issues within the local area.

We met with key industry stakeholder groups on a regular basis to maintain cooperative and collaborative relationships e.g., Real Estate Institute of Queensland, Motor Trades Association of Queensland, Australian Resident Accommodation Managers Association, Queensland Consumers Association, Indigenous Consumer Assistance Network and approved security industry associations.

We liaised extensively with consumer protection regulators in other Australian jurisdictions on current and emerging risks and opportunities. We also liaised with other Queensland regulators where matters raised fall outside our jurisdiction, or where jurisdictions intersect, to achieve the most appropriate outcomes for both consumers and traders.

Where formal arrangements are required by legislation, we entered into a Memoranda of Understanding or Information Sharing Agreements with other parties. These agreements provided a framework for cooperation between the parties to facilitate information exchange, general administration and compliance activities relating to common areas of interest.

We also participated in a variety of interagency committees to share information and provide advice. These included the Queensland Building and Construction Commission Services Trade Council, Queensland Law Society Competition and Consumer Law Committee, Australian Scam Awareness Network, Security Industry Regulators Forum, North Queensland Consumer Taskforce, and the Smart Service Queensland Partner Board.

Information about changes to industries regulated by the OFT was posted on our website and promoted via newsletters, social media, and emails, with updates provided to sectors such as real estate, security providers, charities and incorporated associations, as well as general information for retailers.

On 6 June 2024, the Queensland Government introduced mandatory continuing professional development (CPD) for property agents. The requirements for CPD are due to commence on 6 June 2025, giving the real estate industry and training organisations time to adjust to the new obligations.

CPD was implemented following extensive consultation with stakeholders including property agents, government agencies and community groups, to establish an obligation for property agents to keep their professional skills current and relevant.

CPD aims to enhance public trust in the industry and protect consumers by upskilling property agents, ensuring they remain abreast of changes in their sector so they can voluntarily comply with legislative requirements, and enabling them to conduct business to the standards expected by clients.

A 'light touch' model for CPD was adopted to ensure flexibility and to minimise any administrative burden on property agents. Consultation and engagement are ongoing under the CPD 'light touch' model, with the establishment of an advisory panel in August 2024. The panel includes representatives from peak property

industry bodies, a community organisation and a training specialist, and will amongst other things, recommend appropriate CPD sessions.

In 2023-24, we continued an initiative to connect with a wide range of First Nations stakeholders to better understand the consumer issues facing their community members. As part of the project, we established a working group comprised of local government representatives and consumer advocacy groups who work within First Nations communities.

Stakeholders have consistently identified that one of the primary consumer issues faced by First Nations consumers is poor quality vehicles. While robust consumer protections exist, First Nations consumers are more vulnerable to risk when purchasing a second-hand vehicle, especially in regional and remote areas where a lack of competition and other factors can result in reduced choices, higher prices and an increased risk of defective vehicles in the market.

Adhering to the principles of partnership and codesign, we liaised with the working group about what would provide the greatest benefit to address identified issues. One of the primary pieces of consumer advice we promote is to obtain an independent pre-purchase vehicle inspection prior to purchase. However, working group members explained that for many First Nations consumers, this step is cost prohibitive. As a result, in 2024-25 we will pilot a subsidised pre-purchase vehicle inspection grant program for eligible First Nations consumers. The grant program will be run in partnership with trusted stakeholders and reputable vehicle inspection services.

In 2023-24, we developed a guideline to enable the Chief Executive to approve an exemption from the requirement to hold a security licence for First Nations community residents. The *Security Providers Act 1993* does not provide for discretion to grant licences to persons convicted of disqualifying offences. This has the potential to negatively impact remote First Nations communities and prohibit First Nations people from employment in their community. Concerns raised by stakeholders included:

- an inability for First Nations communities to hire local community members in security roles
- the significant costs incurred to bring in staff from other locations
- that a person who is not eligible to hold a security provider licence is excluded from earning a livelihood (as a security provider)
- the range in seriousness of disqualifying offences, and
- a person convicted of a disqualifying offence has no opportunity to appeal exclusion.

OFT responded to these concerns by developing the guideline which, without unduly compromising on public safety, provides a pathway for First Nations community residents to seek an exemption from the requirement to hold a licence, subject to completing the approved training course and securing the written endorsement of the local Community Justice Group, local decision-making group and liquor licensee. Queensland Police Service input is also sought prior to the OFT considering all available information to determine whether to grant an exemption.

An exempt person is permitted to work in a variety of security-related roles, ultimately to serve the local community, gain meaningful long-term employment and contribute to the overall improvement in service provision in First Nations communities in remote areas.

In 2023-24, the OFT engaged with approximately 2,000 residents and community workers in First Nations communities. Activities were conducted across the state in locations including Mornington Island, Doomadgee, Mareeba, Yarrabah, Cairns, Townsville, Woorabinda, Cherbourg, Toowoomba, Brisbane, Ipswich, Logan, Sunshine Coast and the Gold Coast. The OFT engaged with local organisations to ensure culturally and community appropriate information and assistance was provided.

The OFT visited and engaged with communities as part of the *Do-not-knock* informed communities' program. A joint initiative of the OFT, the ACCC, local Aboriginal Shire Councils, and not-for-profit community groups, *Do-not-knock* is designed to deter unscrupulous door-to-door traders from targeting Indigenous communities and to empower consumers to use their consumer rights. The program operates in Wujal Wujal, Yarrabah, Hope Vale, Palm Island, Woorabinda and Cherbourg.

The OFT's Outreach Program took fair trading information and advice into rural and regional parts of the state. During 2023-24 we visited:

- Boonah - July 2023
- Woorabinda - July 2023 and June 2024
- Cherbourg - July 2023, March and June 2024

- Yarrabah - August 2023 and June 2024
- Mount Isa, Julia Creek, Cloncurry, Richmond and Hughenden - August 2023
- Mount Morgan - August 2023
- Mornington Island and Doomadgee - September 2023
- Barcaldine, Longreach, Winton and Blackall - November 2023
- Murgon - February 2024
- Cunnamulla, Charleville, Mitchell and St George - March 2024
- Collinsville, Bowen and Glenden - May 2024
- Agnes Water, Miriam Vale, Bororen and Bouldercombe - May 2024.

Model practice 3: Provide appropriate information and support to assist compliance

Supporting principles:

- clear and timely guidance and support is accessible to stakeholders and tailored to meet the needs of the target audience
- advice is consistent and, where appropriate, decisions are communicated in a manner that clearly articulates what is required to achieve compliance
- where appropriate, regulatory approaches are tailored to ensure compliance activities do not disproportionately burden particular stakeholders (e.g. small business) or require specialist advice.

Evidence to support alignment with regulator model practice

We provided up-to-date and timely information to consumers and traders via the Queensland Government call centre, the OFT website and social media channels, media releases, and through consumer and trader awareness campaigns and forums.

We published guidance on the consumer protection legislation we administer to assist traders to comply. Our [website](#) also hosts a number of general and industry specific guides, checklists and advice for consumers and traders about their rights and responsibilities. All communication materials are written in plain English. We also provide fact sheets in other languages for non-English speaking clients.

We produced a series of regular newsletters including Smart Business Bulletin, Safetyzone and Security Buzz. We use these newsletters to communicate emerging issues and legislative change to target audiences. Consumers and traders can subscribe to these newsletters via our website or by contacting us by phone or email.

We commit to giving businesses certainty by assessing, investigating and enforcing the law consistently across comparable situations, including considering any national implications and the circumstances involved.

Our compliance framework includes policies, procedures and practices which ensure we target conduct, rather than a particular type of business.

Our education program recognises smaller traders may not be able to leave their businesses to attend forums and presentations, and accordingly it includes 'trader walks'. These involve fair trading officers visiting businesses at their retail premises to provide information and advice about consumer protection laws specific to their situation. OFT provided information and advice to 1,797 business people through these trader visits during 2023-24.

We administered many industry-specific laws to assist businesses operating in industry sectors to comply with their regulatory obligations. We delivered targeted compliance-focused education visits which included the provision of supporting materials or information about resources available to assist traders. The aim of these education visits was to provide an opportunity for OFT officers to discuss a trader's business practices, the requirements of relevant legislation and to provide guidance and advice to assist traders achieve compliance.

Our compliance program was planned and coordinated. We developed a compliance calendar based on identified risks and analysis of the marketplace. We focused our compliance efforts on industry sectors, licensees and traders most likely to cause harm, and where consumers are most at risk. We published our [regulatory priorities](#) as well as our [proactive compliance targets](#) on our website so that industries are aware and can take steps to voluntarily comply.

We regularly provided communications to stakeholders, regulated entities, and Queensland consumers to inform them about changes to legislation, their consumer rights, consultations on proposed changes, how to avoid scams and many other topics.

From 9 November 2023, changes to the Australian Consumer Law prohibit businesses from proposing, using or relying on, unfair contract terms in standard form contracts with consumers and small businesses. We conducted an education campaign which aimed to raise trader awareness of the changes and encouraged businesses to review their standard form contracts and remove or amend any unfair contract terms.

Each year Australian consumer law regulators agree on a nationally coordinated approach to delivering education and awareness activities on common themes and topics. Jurisdictions share lead agency responsibilities. In 2023-24, the OFT led two new national campaigns: the informed and savvy consumers cost

of living campaign and the *dark commercial patterns* digital marketing tactics campaign. We also participated in an annual program of education campaigns based on calendar events. Topics covered in 2023-24 included avoiding scams, Mother's Day which provides an opportunity to educate consumers and businesses about the Australian Consumer Law, and product safety requirements associated with Halloween.

During 2023-24, other communication topics included:

- Off-the-plan sunset clauses – new limits for the use of sunset clauses
- Unfair contract terms – small businesses now protected
- Incorporated Associations – getting ready for the new provisions
- Cosmetic tattoos – who needs a licence
- Ladder safety
- Christmas toy safety
- Sales and online shopping
- Summer and Winter safety
- Valentines Day romance scams.

Model practice 4: Commit to continuous improvement

Supporting principles:

- regular review of the approach to regulatory activities, including collaboration with stakeholders and other regulators to ensure it is appropriately risk-based, leverages technological innovation and remains the best approach to achieving policy outcomes
- to the extent possible, reform of regulatory activities is prioritised on the basis of impact on stakeholders and the community
- staff have the necessary training and support to effectively, efficiently and consistently perform their duties.

Evidence to support alignment with regulator model practice

We are committed to the continuous improvement and development of our processes, staff and systems to improve safety and fairness for Queensland businesses and consumers.

We develop training programs for our staff based on needs identified in individual performance agreements and whole of organisation priorities. A suite of online training modules is available to our staff and we use external providers to provide specialist training as required. We encourage our staff to learn skills by undertaking other roles. Key staff attend forums such as those run by the Society of Consumer Affairs Professionals (SOCAP) and the Australia and New Zealand School of Government (ANZSOG) which provide opportunities to share best practice methodologies and to enhance relationships with other regulators.

Our procedures, guidelines, website information and call centre scripting are reviewed annually or following legislative or procedural changes to ensure they remain relevant and accurate.

Our officers are allocated laptop devices. Staff conducting compliance operations use these in-field, providing them with real-time access to up-to-date data, assisting officers to make informed decisions. The devices update data using centralised systems without officers having to return to the office.

Our officers use an online platform for collaboration and networking with consumer protection regulators across Australia. The platform provides a secure, digital environment where information can be shared amongst regulators including requests for data, matters currently under investigation or being considered for investigation and enforcement outcomes. Use of this platform reduces duplication, increases productivity, and drives consistent outcomes across the country. It also helps to ensure that we are targeting our finite resources appropriately.

Our [Regulatory Priorities 2024-25](#) were developed in consultation with key stakeholders by seeking insights on current and emerging marketplace trends and issues causing consumer detriment. The document sets out our regulatory philosophy, the discretion we may exercise in how we direct our resources, and what we will focus on in 2024-25. It also highlights our enduring priorities and contains links to OFT published data, including our annual outcomes report, our online registers and our open data.

A refreshed quality assurance process was commenced in 2023-24 to assist continuous improvement to our quality standards. Quality assurance checks focussed on conciliation case files in 2023-24 and will be expanded to other activities we undertake. These checks help us to identify process deficiencies or where knowledge or skills may be lacking so we can provide officers with targeted messages, further training, or change business practices so staff can more effectively perform their duties.

In 2023-24, OFT agreed to participate in the Queensland Government Digital Licensing initiative to create a whole-of-government Queensland Digital Wallet. The digital wallet provides for the legal recognition and use of digital licences. Work will commence in 2024-25 to include OFT property agent licences as part of a pilot program.

Also in 2023-24, we commenced work on a best practice complaints management project. Consumer complaints received by us are assessed for breaches of OFT legislation. Most assessments do not identify a breach for which enforcement action can be taken and, in these instances, conciliation can be undertaken between the consumer and trader. While our approach to conciliation has not materially changed in several years, the operation of the market and complaint volumes have changed significantly.

In response, we commenced a project to identify contemporary best practice in conciliation and consumer complaint handling to determine what approach would be of most benefit to Queensland consumers. The

project aims to improve triaging of complaints and response times, give greater emphasis to the individual circumstances of the matter, and identify a broader range of regulatory options for consumers.

We have already completed significant research and consultation with industry, community and government stakeholders to identify best practice in complaint handling. The first stage of a revised triage process began in a trial phase in September 2024 with further improvements to be rolled out during 2024-25. These changes aim to improve the quality of our services and ensure that resources expended are proportionate to the level of risk and harm.

We continued development of the Compliance and Licensing Management System (CALMS) which will replace legacy licensing and compliance applications with a new modern solution. The consumer complaint and conciliation functionality was released in July 2023 with an update to be released in August 2024 and further releases over the coming years to include additional compliance activities and licensing which will support more effective and efficient processing, collection of data and intelligence analysis.

We undertook a Business Process Review of our licensing processes in preparation for building the licensing functionality in CALMS. This resulted in a proposed reduction in business processes and plans for digitisation and automation where possible.

We upgraded our online services platform and implemented enhancements resulting in an improved and streamlined customer experience. Further updates to our online services are planned to be progressively released.

The OFT delivers the Buy Smart Program, a hands-on learning activity designed to help Queensland students develop life-long skills and become more informed consumers. In 2023, over 8,600 students participated in the program.

Buy Smart is evaluated each year with learnings incorporated, tools updated to include new marketplace issues facing young people, and to improve the OFT resources offered to teachers. In addition, in 2023-24 we commenced work to expand Buy Smart to deliver consumer and financial literacy information through additional channels to reach more vulnerable young people including those who have disconnected from formal education pathways, are not living at home, or are living at home but require extra support. In 2024-25 we will continue working with community organisations which have 'trusted adults', respected by the young people who are involved, who can help share the consumer and financial literacy messages.

Model practice 5: Be transparent and accountable in actions

Supporting principles:

- where appropriate, regulatory frameworks and timeframes for making regulatory decisions are published to provide certainty to stakeholders
- decisions are provided in a timely manner, clearly articulating expectations and the underlying reasons for decisions
- indicators of regulatory performance are publicly available.

Evidence to support alignment with regulator model practice

We deal with consumers and traders in an open and transparent manner to ensure service delivery standards and expectations are maintained. Decisions made by us can be reviewed through a range of avenues including tribunals, courts, the department's Client Complaint Management process, and the Queensland Ombudsman.

Key datasets, policies and reports are publicly available on the [Queensland Government website](#) or the [Open Data Portal](#). This includes our [Regulatory Priorities 2024-25, Compliance and Enforcement Policy](#) (CEP) and our [Proactive Regulation of Industry and Marketplace Entities \(PRIME\)](#) program and compliance calendar.

Members of the public are able to check an entity operating in an industry regulated by the OFT is appropriately licensed or that a charity or incorporated association is registered through a free [online search](#). A register of enforceable undertakings is also available on the Queensland Government website.

We issue [media releases](#) to report the outcome of significant court and tribunal matters we have initiated and, where available, include comments explaining the decision and penalty made by the presiding Tribunal Member, Magistrate or Judge. We also maintain online a [prosecution action register](#) listing all prosecutions undertaken. We use social media channels to provide timely alerts to information and to raise awareness of where to find published details.

Target timeframes for completion are provided on our website, complaint forms and licence and registration application forms.

We ensure investigations are conducted as efficiently as possible to avoid uncertainty for business. We categorise investigation files by taking into consideration the complexity and priority of a matter and other factors such as the consumers affected and the extent of the misconduct. Target timeframes for completion of investigations are provided in the CEP. During more significant investigations, we provide regular updates to the parties to keep them informed of progress.

Our officers conduct reviews throughout the consumer complaint management process with a supervisor or manager also reviewing their actions. These reviews allow for examination of our case management practices ensuring investigative performance is maintained, and that enforcement action is appropriate and is being applied consistently.

Quality assurance reviews were also conducted on a selection of conciliation case files from 2023-24 to confirm they were progressed appropriately and in accordance with OFT's policies and procedures.

We provide a statement of reasons for decisions made about claims lodged against the *Agents Financial Administration Act 2014* Claim Fund, when we decline an application for an occupational licence and following any other significant administrative decision involving review rights.

We publicly report on our performance as a regulator in several ways including in Service Delivery Statements and departmental Annual Reports. We also produce and publish an annual [Outcomes Report](#) which provides details of our activities and achievements, statistics and case studies. These reports include efficiency and effectiveness measures such as the percentage of conciliated consumer complaints finalised with a satisfactory outcome and the number finalised within timeframes, and the average cost of provision of occupational licensing services.

We provide the community access to key OFT data through the Queensland Government's Open Data Portal, including the number and location of licensees and registered organisations, consumer complaints received and enforcement actions undertaken.

In addition to publicly available data and reporting, we report internally on key metrics each month to monitor our performance and ensure issues are identified and acted upon quickly.

In 2023-24, the Consumer Policy Research Centre (CPRC) commenced an examination of how Australian Consumer Law regulators can use consumer complaint data to help consumers, businesses and themselves. The report entitled *Am I the only one* was published in September 2024 and provides an assessment of each regulator's public reporting of complaints data and recommendations for best practice. The report was compiled following open-source research and consultation with regulators. The OFT was ranked second amongst Australian consumer regulators in the assessment of the performance of each regulator. This result reflects our commitment to making data publicly available but also recognises that further improvements can be made. The report recommendations are being considered. Improvements to the way we present our data will be rolled out in 2024-25.