

**ANNUAL REPORT OF
THE COMMISSIONER
OF CONSUMER AFFAIRS
2013-14**

NORTHERN TERRITORY

CONSUMER

AFFAIRS

The Hon John Elferink
Attorney-General and Minister for Justice
Parliament House
DARWIN NT 0800

Dear Minister

Re: ANNUAL REPORT 2013-14

The Department of Attorney General and Justice 2013/14 Annual Report includes performance reporting on Consumer Affairs in conformity with requirements of the *Public Sector Employment and Management Act* and the *Financial Management Act*.

The Commissioner of Consumer Affairs is a statutory officer and is required to report to the Minister annually pursuant to:

Section 12 of the *Consumer Affairs and Fair Trading Act*;
Section 15 of the *Residential Tenancies Act*;
Section 11 of the *Retirement Villages Act*;
Section 14 of the *Business Tenancies' (Fair Dealings) Act*; and
Section 20 of the *Caravan Parks Act*;
Part 5A of the *Building Act*.

I have pleasure in submitting to you the Commissioner's report for the year ended 30 June 2014.

Yours sincerely



Gary Clements
Commissioner of Consumer Affairs
Northern Territory Consumer Affairs

22 October 2014

TABLE CONTENTS	PAGES
Output Statement	3
Legislative Responsibilities	4
Highlights and Matters of Significance	5
National Committees	6
Media	9
Educational Activities	10
Indigenous Liaison	12
Indigenous Liaison - Partnerships	15
Consumer Affairs Website	17
Fair Trading	19
Complaints Process	23
Residential Tenancies	26
Business Tenancies	28
Compliance	29
Retirement Villages Act	34
Caravan Parks Act	34
Other Statutory Responsibilities	35

CONSUMER AFFAIRS

OUTPUT STATEMENT

Provision of a regulatory framework where the community is informed on consumer rights and responsibilities and responsible business conduct is promoted.

PROGRAMS

Promote and regulate responsible business and industry conduct through administration of a regulatory system that protects community interests.

Inform consumers of their rights while assisting conflict situations through dispute resolution processes.

REPORTING STRUCTURE

Northern Territory Consumer Affairs is located within the Department of Attorney General and Justice and reports to the Chief Executive Officer in regard to compliance with *the Financial Management Act* and the *Public Sector Employment and Management Act*.

The Commissioner reports directly to the Attorney General and Minister for Justice under statutory appointments pursuant to the following Acts:

Section 12 of the *Consumer Affairs and Fair Trading Act*;
Section 15 of the *Residential Tenancies Act*;
Section 11 of the *Retirement Villages Act*;
Section 14 of the *Business Tenancies (Fair Dealings) Act*;
Section 20 of the *Caravans Parks Act*; and
Section 6 of the *Price Exploitation Prevention Act*

LEGISLATIVE REPONSIBILITIES



Accommodation Providers Act

Building Act – Residential Building Dispute Function

Business Tenancies (Fair Dealings) Act

Caravan Parks Act

Consumer Affairs and Fair Trading Act (including the Australian Consumer Law)

Partnership Act

Price Exploitation Prevention Act

Residential Tenancies Act

Retirement Villages Act

Sale of Goods Act

Uncollected Goods Act

Warehousemen's Liens Act

HIGHLIGHTS AND MATTERS OF SIGNIFICANCE

RESIDENTIAL BUILDING DISPUTES

During this financial year a Building and Fair Trading Officer joined the Consumer Affairs team to provide support in delivering advice and assistance to consumers and builders in regard to the *Building Act – Residential Building Dispute Function*, and the related *Building (Resolution of Residential Building Work Disputes) Regulations*.

The regulations provide an avenue for consumers to seek resolution of disputes relating to residential building work. This financial year saw an increase in enquires in relation to residential building work with 47 telephone enquiries received. The majority related to new building work where there was often a breakdown in communication between the consumer and builder. The issues also related to work yet to be completed before handover or defects found within the warranty period. A total of six formal applications were received.

Northern Territory Consumer Affairs offers mediation and conciliation services for residential building dispute matters with an in-house qualified mediator facilitating the sessions. This process involves the applicant and the respondent attending pre-conciliation and conciliation conferences with the intention of seeking a mutual agreement to resolve the dispute. Northern Territory Consumer Affairs successfully conciliated a residential building dispute at the pre-conciliation conference where both parties agreed to undertake certain actions. This outcome resulted in the consumer obtaining possession of their new house within a few days of the application being lodged while also having identified defects fixed within a week. Both the consumer and builder were happy with this outcome.

NATIONAL MEETINGS

The Australian Consumer Law is harmonized national legislation that relies on all jurisdictions being involved in providing a consistent message to traders and consumers. Consumer Affairs Officers attended a variety of national forums and teleconferences ensuring jurisdictions discuss issues of national importance and work together in providing protection for consumers. These meetings and teleconferences included:

- Legislative and Governance forum on Consumer Affairs (CAF). The Commissioner attended with the Minister in Parramatta NSW in July 2013. The Commissioner also represented the Minister at each of the other two meetings held this reporting year.
- Consumer Affairs Australia and New Zealand (CAANZ); which is represented by each of the heads of Consumer Affairs and or Fair Trading Agencies nationally;
- Compliance and Dispute Resolution Advisory Committee (CDRAC); inclusive of a number of working parties;
- Education Information Advisory Committee (EIAC);
- Fair Trading Operations Group (FTOG);
- National Indigenous Consumer Strategy (NICS); and
- Society of Consumer Affairs Professionals (SOCAP) Annual Symposium.

NATIONAL COMMITTEES

NATIONAL INDIGENOUS CONSUMER STRATEGY (NICS)

The National Indigenous Consumer Strategy (NICS) has members from the Commonwealth and all State and Territory Governments. The strategy's action plan demonstrates the shared responsibility for ensuring that Australia's performance in Indigenous consumer affairs is continually improved. Projects and strategies are formed and common issues are discussed that affect Indigenous consumers at a national level. During this financial year Northern Territory Consumer Affairs was one of the architects in the development of the 'Be Smart – Buy Smart' national resource, which uses simple English in a depicitive format to assist in raising the awareness of Indigenous consumer rights.

This new resource booklet, 'Be Smart- Buy Smart' utilises the 'Talk About Shopping' booklet as its foundation, which was developed in South Australia for the Pitjantjatjara lands. The 'Be Smart - Buy Smart' publication has been released to all jurisdictions and is utilised throughout the Northern Territory, especially in the remote communities.

National Indigenous Consumer Strategy



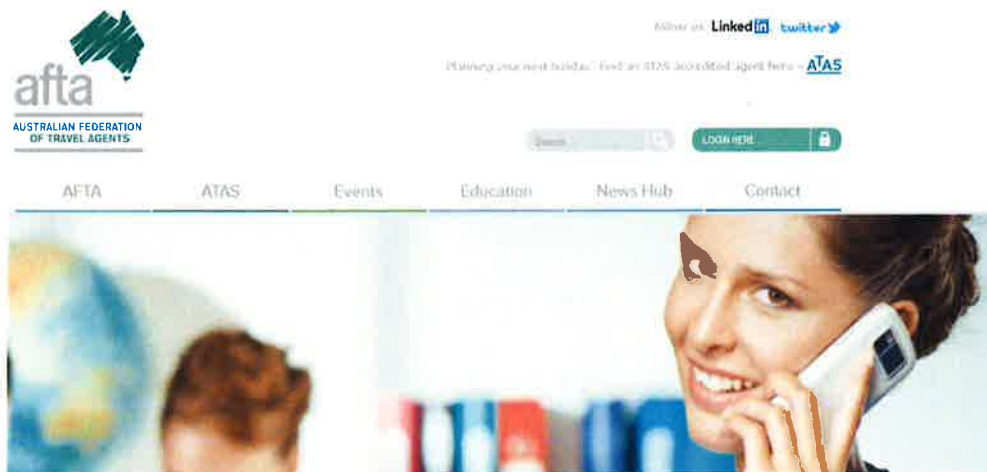
EDUCATION INFORMATION ADVISORY COMMITTEE (EIAC)

The Education Information Advisory Committee (EIAC) has members from the Commonwealth and all State and Territory Governments and New Zealand; this committee's role is to develop educational resource material for the wider community on the Australian Consumer Law. This material is developed for both the Consumer and Business sectors. Northern Territory Consumer Affairs representation on this committee ensures the material developed takes into consideration the demographics of our region and the multicultural aspect of our community.

NATIONAL TRAVEL REFORM COMMUNICATIONS COMMITTEE

This committee was formed to ensure consumers were informed about changes to the travel industry following the National Travel Reform which saw the deregulation and cancellation of licensing of travel agents. From 1 July 2014 Travel Agents are no longer required to be licensed. At the time of cessation of licensing the Australian Federation of Travel Agents (AFTA) created an industry accreditation program called the Australian Travel Accreditation Scheme (ATAS) that sets the benchmark of quality for the travel industry. Through funding from the former Travel Compensation Fund a media communications plan was agreed to by all state and territory representatives on the Committee.

An education campaign called 'Pack Some Peace of Mind' will provide information to all travellers on what to look for when booking holidays, whether online or with a Travel Agent. The media campaign will commence on 1 July 2014 ensuring travelers are informed that they have protection under the Australian Consumer Law when purchasing travel.



AUSTRALIAN CONSUMER LAW GUIDES

Since commencement of the Australian Consumer Law the Education Information Advisory Committee (EIAC) has created a number of guide books relating to aspects of the law. A working group dedicated to reviewing the Australian Consumer Law Guides was formed to evaluate the information that is provided in the existing guide books. The Australian Consumer Law (ACL) has been in force for over two years and the Education Information Advisory Committee considered it was timely to ensure that the information provided is reflective of the outcomes and findings through the day to day use of the Australian Consumer Law. The Guides are available on the Northern Territory Consumer Affairs website. Some of the Guides available are 'Consumer Guarantees', 'Motor Vehicles Sales and Repairs' and 'Sales Practices'.

COMPLIANCE AND DISPUTE RESOLUTION ADVISORY COMMITTEE (CDRAC)

The Compliance and Dispute Resolution Advisory Committee has members from the Commonwealth, State and Territory Governments and New Zealand. The advisory committee provides a platform where all regulators can discuss the Australian Consumer Law and agree to consistent enforcement, compliance and dispute resolution from a cross jurisdictional perspective.

GOVDEX (ACLINK)



The Compliance and Dispute Resolution Advisory Committee (CDRAC) endorsed the development of a Cross-Jurisdictional Extranet, Govdex, as a virtual workspace in 2010. Govdex is managed by the Australian Government Information Management Office (AGIMO) on behalf of the Commonwealth, Department of Finance and Deregulation. The Australian Competition and Consumer Commission host the workspace. It is accessible via secure connection for Compliance and Dispute Resolution Advisory Committee agencies for the purpose of collaboration, content management and reporting. ACLINK allows Commonwealth, State and Territory Governments and New Zealand regulators to have a collaborative workspace for sharing intelligence in the consumer product and service markets. Northern Territory Consumer Affairs actively uses this workspace to share and gather information with other jurisdictions. A Jurisdictional Administrator from each participating jurisdiction ensures that the workspace is used according to agreed strict guidelines and protocols.

Australian Consumer Law Intelligence Network Knowledge (ACLINK)



MEDIA

Northern Territory Consumer Affairs utilises a range of media outlets on both a proactive and reactive basis to ensure Territorians are aware of a wide range of current issues.

Over the reporting year the Commissioner and/or Deputy Commissioner undertook 68 media interviews on radio, television and in local newspapers.

The Commissioner participates in a monthly morning talkback segment on the ABC radio highlighting recent scams and bringing general consumer awareness messages to Territorians.

The Indigenous Education and Liaison Officer also presents a consumer awareness segment with the Top End Aboriginal Bush Broadcasting Association (TEABBA) on a fortnightly basis. This segment reaches 29 remote communities throughout the Northern Territory



EDUCATIONAL ACTIVITIES

Northern Territory Consumer Affairs staff attended and undertook a number of presentations to community groups; the following are some of those visited this reporting year.

DEFENCE EXPO

Northern Territory Consumer Affairs attended the Darwin Defence Day Expo which is designed to highlight the availability of services within the Northern region for new service personnel posted into the area. The Darwin Expo was held at the Fannie Bay Racecourse which was open to all defence force personnel and the general public. This Expo was attended by many of the service contingent, with a large cross section of those attending the expo receiving information about the services provided by Northern Territory Consumer Affairs.



INDIGENOUS YOUTH

Northern Territory Consumer Affairs continued their long term connection with Karen Sheldon Catering and Training in Darwin by conducting presentations to course participants. The participants of these courses are predominantly indigenous youth who are engaged in a job readiness training program. The presentations were designed to empower the participants by increasing their knowledge of their consumer and residential tenancy rights and responsibilities. During these presentations the youth were very willing to discuss their own issues in an open forum including raising their own personal consumer experiences which enabled all of the participants to gain the knowledge to prevent similar situations affecting them. The issues discussed ranged from mobile phone scams, internet phishing and consumer and residential tenancy matters.

SENIOR CITIZENS

Two information sessions for senior Territorians were conducted by Northern Territory Consumer Affairs during this reporting period. One was held at Palmerston, while the other presentation was conducted during Senior's Month. These presentations provided seniors with the opportunity to discuss various issues, however the seniors' main focus was on internet and telephone scams as they found these issues had either directly affected or were of great concern to them.

INDIGENOUS LIAISON COMMUNITY VISITATION PROGRAM

The Northern Territory Consumer Affairs Indigenous Liaison and Education Officer attended eight communities throughout the Northern Territory during the reporting year to raise residents' awareness on the legislation administered by Northern Territory Consumer Affairs.

The focus of these visits is to convey consumer protection messages and discuss residential tenancy concerns with the elders and other residents in the community. By educating and informing the elders, messages are then passed on to other community members with the end result of encouraging a better understanding of their rights under consumer protection laws. These activities resulted in Indigenous people being more willing to complain about consumer issues when problems arise. Having an Indigenous person complain about a product or service is a huge step that evidences that they understand their consumer rights as they are more comfortable about making a complaint.

The communities visited during this reporting period included Wadeye, Peppimenarti, Palumpa, Ramingining, Bulman, Katherine, Timber Creek, and Daly River



INFORMATION SESSIONS

Community visitation program information sessions were conducted for elders, community members and local schools. A manned information stall was erected outside each of the local community stores which allowed ease of access to the consumer information and advice provided by the Indigenous Liaison and Education Officer.

During this reporting period, Northern Territory Consumer Affairs revised and updated its display posters and the information displayed at the information stalls. The new images and messages on the posters were presented with an Indigenous focus with clear messages for indigenous consumers. This resulted in a noticeably higher participation rate in people approaching the stall within the communities.



COMMUNITY STORES AND BUSINESSES

The Indigenous Liaison and Education Officer engaged with local community businesses during the community visitations to raise their awareness of their rights and responsibilities under the Australian Consumer Law. In one community store, the Indigenous Liaison and Education Officer assisted with the training of the floor staff regarding the correct procedure when restocking shelf items. This was at the request of the Store Manager due to the difficulties faced with staff understanding their requirements under the Australian Consumer Law (ACL) of having the advertisement and pricing on the shelves matching with the product. Advice was also provided to Store Managers in relation to ensuring correct prices were placed on shelves to ensure that the prices matched the prices of goods when scanned at the cash register. The requirement to provide itemised receipts for high value products and/or when requested by consumers was also discussed.

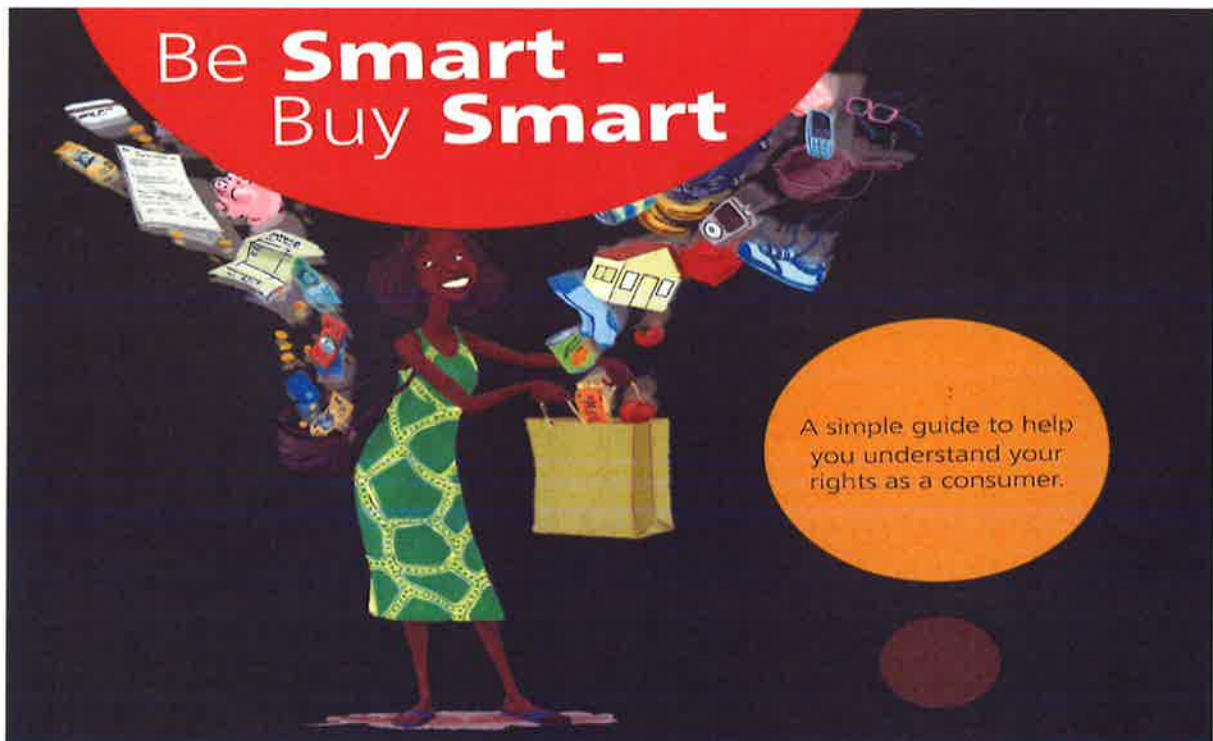
RESOURCE MATERIAL

During this reporting period the 'Be Smart - Buy Smart' publication was released nationally under the National Indigenous Consumer Strategy (NICS) banner.

Northern Territory Consumer Affairs is a participating member of the National Indigenous Consumer Strategy Reference Group of which the Commonwealth, State and Territory Governments are members.

Northern Territory Consumer Affairs used South Australia's publication developed for the APY Lands Indigenous consumers as a base to develop a publication specifically directed at Indigenous consumers. This publication was very well received at the communities that were targeted by the visitation program. In 2012, Northern Territory Consumer Affairs commenced lobbying the other National Indigenous Consumer Strategy members to adopt this publication as a national project to produce the publication as it had a specific Indigenous focus and presented in an easy English format and could be used Australia wide. The lobbying proved successful and in February 2014 the 'Be Smart - Buy Smart' publication was released nationally and is now distributed in remote and very remote communities throughout Australia.

To assist with the distribution of the publication a partnership was formed with the Arnhem Land Progress Aboriginal Corporation to distribute and display the booklet in 30 remote stores throughout the Northern Territory. In total 1,700 booklets have been distributed to remote communities throughout the Northern Territory during this reporting period.





INDIGENOUS LIAISON – PARTNERSHIPS

TOP END ABORIGINAL BUSH BROADCASTING ASSOCIATION

Northern Territory Consumer Affairs provides content, on a fortnightly basis, for a “Consumer Awareness” segment with the Top End Aboriginal Bush Broadcasting Association (TEABBA). This segment reaches 29 remote communities throughout the Northern Territory. This is an excellent medium to raise and improve consumer awareness of various topics including lay-bys, receipts, mechanical repairs, mobile telephones, consumer guarantees and general consumer rights.

TEABBA also conducts community announcements to advise listeners when Northern Territory Consumer Affairs will be undertaking visits to various communities. This has contributed to an increased number of people attending the local community stores to receive information or obtain advice regarding consumer issues.

ARNHEM LAND PROGRESS ABORIGINAL CORPORATION

Northern Territory Consumer Affairs in partnership with the Arnhem Land Progress Aboriginal Corporation and a number of other organisations developed a poster to address telephone scams within the Arnhem Land communities. The poster follows an increase in scammers telephoning people in the Arnhem Land region. This poster has been distributed to remote communities and government and non-government organisations throughout the Top End to display within their offices to raise awareness of the dangers of mobile telephone scams. The message within the poster is "Say No to phone scams".

WHO IS CALLING?

SAY NO TO PHONE SCAMS

Don't give out bank details to strangers or people you don't trust because they will steal your money

If this has happened to you please call:

NORTHERN TERRITORY
CONSUMER AFFAIRS 1800-019-319

My Small Enterprise OUTBACK nab

CONSUMER AFFAIRS WEBSITE

The Northern Territory Consumer Affairs website is a popular place to find information about the wide variety of functions and legislation that Northern Territory Consumer Affairs administers. The website has many factsheets that are handy reference materials for consumers, traders, tenants, landlords and other stakeholders.

The 'News and Events' section is updated regularly to ensure the latest items of interest are brought to the attention of readers. These may be media releases from the Commissioner of Consumer Affairs, community events or changes in legislation.

The 'For Businesses' section provides information and a variety of guides relating to the Australian Consumer Law that have been produced through national collaboration with the Commonwealth, State, Territory and New Zealand Governments .

The continued popularity of the website is demonstrated by the increasing number of people that visit the site. This year a total of 45,716 people accessed the site which is a huge increase over last year's total of 29,822. This is an increase of 53% from the previous year.

FACEBOOK

In August 2013 Northern Territory Consumer Affairs launched its Facebook page. Social Media is an important tool that had been very successful in keeping people up to date with current events. The items of interest that are posted include residential tenancy and general consumer tips, scam warnings, community announcements and public warnings.

The posting of public warnings in relation to rogue traders has proven very popular in getting the warning to as many people as possible in a short period of time. These are posted to ensure less people will be ripped off by these unscrupulous traders. Posted warnings about scams have also proven very popular.

Consumers also post questions on our page and generally responses to these type of enquires direct the consumer to contact the call centre, as often more information is needed to ensure the advice provided meets the consumer's needs.

Facebook Continued

The number of 'likes' has increased by 9% with a further 154 more people liking our page from the previous year. The most outstanding increase has been the number of people that have viewed our posts. This has seen an increase of 439% with a total of 30,653 people being informed of Consumer Affairs' information by viewing our Facebook posts during this reporting period.



Northern Territory Consumer Affairs

October 17, 2013

Consumer Tip:

Do you check your receipts? Does your receipt say no refund after 7 days or no refund if the package has been opened? These terms may be in breach of the Australian Consumer Law (ACL). NT Consumer Affairs will actively pursue these clear breaches of the ACL. If you come across or have a receipt that has terms such as these, please contact us on 1800 019 319 or email a scanned copy to consumer@nt.gov.au.

Refunds strictly 7 days
- conditions apply.

Visit our website

Like Comment Share

5 1 Share

FAIR TRADING

Northern Territory Consumer Affairs receives a wide range of varying enquires relating to the 12 pieces of legislation that are administered by this office. All telephone enquiries are received through our dedicated call centre. People can also contact our Office via email, post, Facebook or by physically walking into one of our two offices that are located in Casuarina and Alice Springs and speaking directly with a Fair Trading Officer.

The majority of advice provided relates to residential tenancy matters and the Australian Consumer Law. Consumers, traders, landlords and tenants all contact Northern Territory Consumer Affairs seeking advice about their rights and obligations under the relevant legislation, however many of the enquiries deal with the processes to follow in relation to resolving disputes with traders.

One of our prime focuses is to provide a conciliation service for consumers who have been unsuccessful in resolving a dispute with a trader by themselves. Where a consumer is unable to resolve a dispute with a trader they may lodge a formal complaint form along with any applicable evidence with Northern Territory Consumer Affairs. Lodging the formal complaint allows the Fair Trading Officers to act on their behalf to conciliate the complaint.

Fair Trading Officers also undertake educational visits with traders to provide advice in relation to the Australian Consumer Law, the *Uncollected Goods Act* or any of the other legislation administered. We also regularly visit Legislative Assembly Electorate Offices where information packs are provided to ensure the Electorate Officers have up to date information relating to our services. Presentations are also undertaken by Fair Trading Officers to various community groups throughout the region.

TRADER VISITS

Fair Trading Officers engage with traders by conducting face to face visits. The purpose of these visits is to provide traders with advice on their rights and responsibilities under the Australian Consumer Law and other legislation administered. These visits also provide an opportunity for traders to directly raise any questions they may have regarding the Australian Consumer Law or other legislation.

Information packs are provided to the businesses during these visits. The pack contains information booklets and helpful guides that assist the business to operate within the guidelines of the Australian Consumer Law. A total of 301 businesses were visited throughout the year which is down on the previous reporting period due to reduced resources.

Trader Visits Continued

This year Fair Trading Officers in the northern region focused on the main shopping areas in Darwin comprising of Casuarina Square, Smith Street Mall, the Mitchell Centre and Palmerston Shopping Centre. A number of Alice Springs retail outlets were also visited throughout the year by staff from the Alice Springs Office.

ENQUIRY SERVICE AND DISPUTE RESOLUTION

Contacts made to Northern Territory Consumer Affairs remained steady with a total of 20,597 enquires received for 2013/14 reporting period. An enquiry can be any contact that is made by phone through the call centre, in person, via email or Facebook.

ENQUIRIES

Consumers commonly contact the call centre to seek advice on what course of action they should take in relation to faulty goods, unsatisfactory services, disputes in relation to payment, residential tenancy issues or other general differences with a trader or landlord.

Northern Territory Consumer Affairs staff provides advice based on the information given to them during the phone call in line with the legislation administered. At times these calls can solely relate to customer service matters however in these instances, we may not be able to provide assistance especially where the matter relates to complaints about staff being rude or dismissive as such issues do not fall within the scope of Consumer Affairs role.

In some cases consumers believe that they have the right to take an item back to a store for a refund or replacement because they don't want the goods anymore or it is the wrong size or colour. This situation constitutes a change of mind. The trader does not have to provide a refund for a change of mind as this falls outside of the requirements of the Australian Consumer Law. Some businesses do accept change of mind to enhance customer service; however it is important as a consumer that you understand the traders refund policy terms when buying an item.

ENQUIRY TRENDS

Over 12,550 phone calls were received by the call centre this reporting period. This has kept our call centre and residential tenancy staff very busy. Residential tenancy matters dominated our calls again this year, with 60% of all calls being tenancy related. Tenancy enquires can range from quite simple matters to very complex issues where providing the right advice in line with the requirements of the *Residential Tenancies Act* is critical.

Enquiry Trends Continued

The remainder of the enquiries came in the form of emails, walk-ins, via post or Facebook. The number of emails received was on par with the previous reporting period; however the number of people that physically attended the Northern Territory Consumer Affairs offices has seen a marked increase. A total of 726 people attended our offices to receive advice in regard to the legislation that Northern Territory Consumer Affairs administers.

In the April to June quarter of 2014, 72% of the people that physically attended our offices requested advice in relation to residential tenancy matters. Residential tenancy enquiries have risen in all areas relative to this area which could be attributed to Darwin's tight rental market and the high costs of rent across the Northern Territory.

Automotive enquiries were higher than the previous year with 658 telephone calls received. Of these calls, 577 were of a more complex nature where the content of the calls were recorded in the Client Enquiry Record System (CERS), an increase of 9% more than the previous year. Details of the enquiry are only recorded in CERS if they involve the provision of more complex advice or referral to another agency.

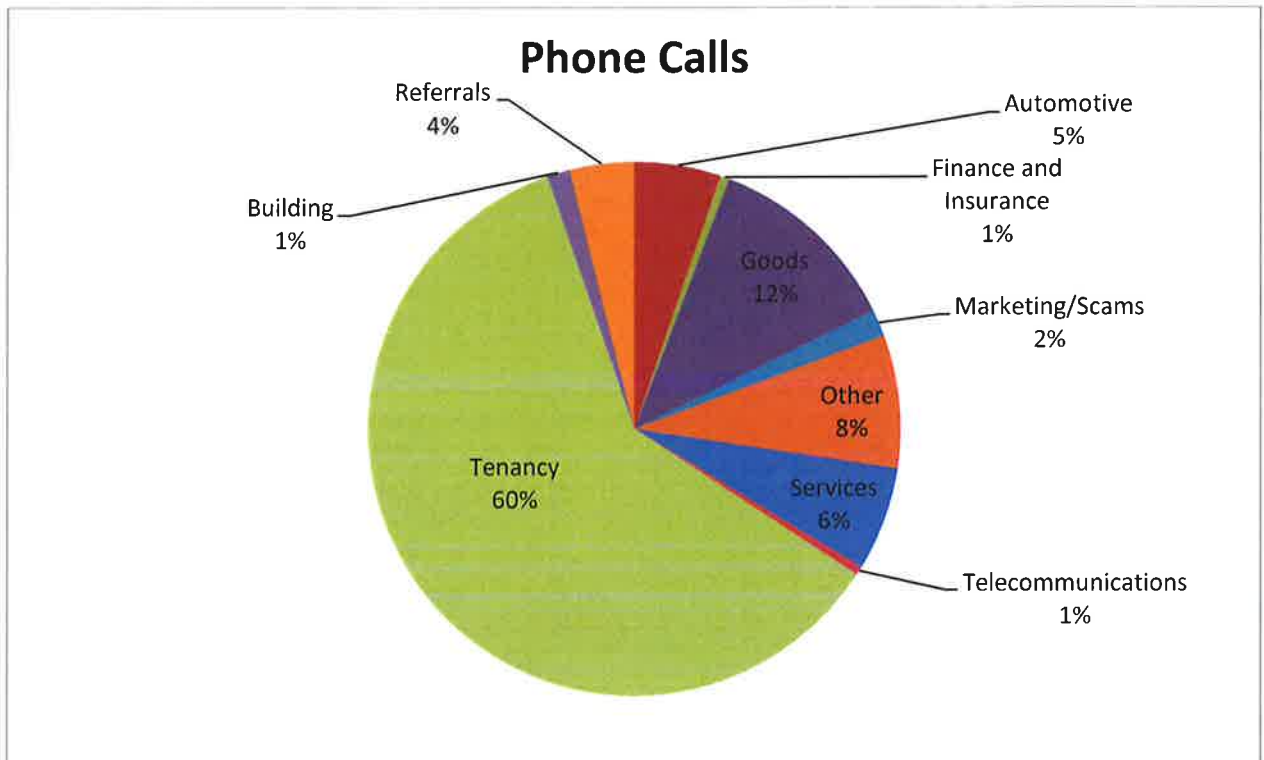
Northern Territory Consumer Affairs is often the first point of contact for people who are unsure of where to receive help or wish to complain about a wide range of matters. People who call our office are often frustrated and angry after dealing with unhelpful people or are feeling like they have been given the run around.

When we are unable to assist the individual we may need to refer the person to another regulatory body or department. Fair Trading Officers ensure that they have a wide range of contact information available to help these people out. Last year 492 calls to this office were referred to other agencies, departments or regulatory bodies. These can include entities such as the Telecommunications Industry Ombudsman, the Australian Securities and Investment Commission or other Commissioner's within the Attorney General and Justice Department.

Northern Territory Consumer Affairs continues to provide limited educational material to vulnerable consumers, the amount and coverage of the educational activities has been severely restricted by the loss of the Education and Promotions Officer and associated resources.

STATISTICS

Phone Calls	
Automotive	658
Finance and Insurance	69
Goods	1500
Marketing/Scams	203
Other	1009
Services	790
Telecommunications	67
Tenancy	7598
Building	171
Referrals	492
Total	12557



COMPLAINTS PROCESS

DISPUTE RESOLUTION

Northern Territory Consumer Affairs offers a conciliation service to parties in dispute in matters that relate to the Australian Consumer Law. If a consumer has a dispute with a trader in relation to goods or services, they may lodge a formal complaint with our office and a Fair Trading Officer will assist in conciliating the matter.

Once the formal complaint has been lodged, it is assessed to ensure that the complaint is justified and the relevant supporting documentation is received. The complaint may not be accepted if the trader has complied with the requirements of the Australian Consumer Law or the complaint is in relation to the behaviour of the trader, for example poor customer service. Some examples of supporting documents that are required are proof of purchase, evidence that the consumer has attempted to resolve the complaint, ie written to the trader requesting a refund or similar, or any email trails.

When the complaint is accepted, a Fair Trading Officer will manage the complaint as part of their caseload. The Fair Trading Officer will then contact the trader, they will either inform them of the complaint in writing or if it is a simple matter by telephone and outline the issues surrounding the matter and ask them to provide their version of events.

The consumer is also advised that Northern Territory Consumer Affairs offers a conciliation service where the outcome is to achieve a realistic result for both parties. They are further advised that a trader is unable to be forced into taking a certain course of action if they choose not to take part in the conciliation process. During the conciliation process, it may be determined that the matter is not justified and the matter may be closed. The consumer is advised of the reasons why the matter is closed and why we are unable to conciliate further.

At times further information to support the claims of the consumer may be required and can result in the consumer obtaining an independent third party report. Mechanical complaints will often require an independent report to verify aspects of the complaint.

During this financial year, 288 complaints were received and of these, 196 were accepted and further conciliated. This is an increase of 33% on the previous year. Although the trader cannot be forced into participating or into taking action, most are willing participants whereupon an outcome that is satisfactory for both parties is often obtained.

COMPLAINTS PROCESS OUTCOMES

Formal complaints can range from very simple to very complex matters that may take a long time to finalise. These complaints are handled in both the Alice Springs and Darwin Offices. The Fair Trading Officers provide unbiased advice to both parties during the conciliation process, however it is ultimately up to the consumer to accept a trader's offer or not. Below are examples of some of the cases that have been dealt with this year.

1. The expectation when anyone buys a new car is that it will be perfect and will last many years. The last thing that you would expect is to be constantly going back to the dealer with problems. This is however what happened to a consumer who had purchased a new vehicle. The vehicle would surge and lose power around a certain speed; this fault had appeared constantly since the vehicle was purchased.

The consumer had taken the vehicle back to the dealer numerous times without a satisfactory outcome. The dealer provided various excuses as to why the vehicle could not be fixed. The consumer was not happy with this and lodged a formal complaint with Northern Territory Consumer Affairs. The faults clearly evidenced the vehicle did not meet the requirements of the Australian Consumer Law in that it was not fit for purpose.

Conciliation with the dealer proved successful with the consumer receiving a brand new vehicle that included all the extras that the consumer had purchased with the original vehicle. The problems with this vehicle were classified as a major fault under the Australian Consumer Law which protected the consumer and resulted in the dealer providing a new vehicle.

2. Consumers will often have problems with an item that faults soon after the manufacturer's warranty period expires. When the product is taken back to the trader all too often they are told, too bad, it is out of warranty. In this instance a consumer purchased a new laptop that included a 12-month manufacturer's warranty, these are called 'Warranties against Defects'. Soon after 12 months the consumer experienced a major fault with the laptop and it was not able to be used. The consumer returned the laptop to the store where it was purchased to have it repaired under warranty; however the trader refused to assist indicating the warranty had expired.

Based on the price and quality of the goods purchased, there was an expectation that the goods should last beyond the manufacturer's warranty expiration date. The Australian Consumer Law provides protection for consumers in these cases indicating that goods should last for a reasonable period. The consumer lodged a formal complaint and in this instance, Northern Territory Consumer Affairs was able to negotiate a brand new replacement laptop for the consumer.

Complaints Process Outcomes Continued

Trader visits have proven to be a winning strategy. This was demonstrated recently when conciliating a formal complaint for a consumer who had purchased a new portable spa. The spa had major aesthetic issues with the moulding of the tub being significantly different to the sample they were shown. The consumer had advised the trader if they had known about the differences they would not have purchased the spa. During the conciliation process, it was obvious the trader was having difficulty understanding their obligations under the Australian Consumer Law. The Fair Trading Officer organised a face to face meeting at the consumer's residence and explained the trader's obligations and provided them with reference material. The trader understood that they had a requirement to ensure the consumer was satisfied with the goods purchased and repaired the spa to the satisfaction of the consumer.

3. During the month of June 2014, the Alice Springs Office of Northern Territory Consumer Affairs received a call from a very upset consumer in regard to a washing machine that she had purchased new in July 2013 from a local trader. Not long after purchasing the machine the consumer received a safety recall notice from the manufacturer. The consumer contacted the manufacturer who advised they would repair the washing machine but it would be difficult as they did not have a service provider in town. Unfortunately, the consumer spent the next 12 months attempting to resolve the situation with the manufacturer before becoming so frustrated that she finally made contact with Northern Territory Consumer Affairs.

A Fair Trading Officer in Alice Springs promptly contacted the manufacturer and was also advised that they did not have a service provider in Alice Springs and that this was the reason for the delay in addressing the consumer's issue. The outcome of negotiations resulted in the manufacturer providing the consumer with a brand new machine. The new machine was larger so the manufacturer delivered and installed the machine with modifications and took the old one away at no cost to the consumer.

Manufacturers have a responsibility to ensure there are service agents and spare parts available for their goods and if not, then the Australian Consumer Law provides that they will need to remedy problems such as this by providing a new replacement item.

Unfortunately issues like this can often serve to frustrate all parties involved. With the help of the Alice Springs Northern Territory Consumer Affairs staff and some co-operation from the local retailer and manufacturer, Northern Territory Consumer Affairs was able to conciliate a very positive outcome for the consumer.

4. When a Fair Trading Officer closes a matter, the trader is provided with a Small Business Self-Assessment Check List. The checklist enables the trader to take a quick self-assessment of their business to assist them in becoming aware of their rights and obligations under the Australian Consumer Law. The check list was developed as part of a joint initiative between the Commonwealth, State and Territory regulators.

RESIDENTIAL TENANCIES



Residential landlords and tenants in the Northern Territory are governed by the *Residential Tenancies Act*. The Act governs all landlords including Territory Housing and its public housing tenants. This Act is administered by Northern Territory Consumer Affairs, under the Commissioner of Tenancies, who have a dedicated Tenancy Unit to deal with the very wide range of matters under this Act.

This Act is quite prescriptive and clearly outlines the roles and requirements that landlords, property managers or tenants must follow to have a successful tenancy.

When a tenancy matter becomes a dispute between the two parties, an Application can be lodged by either party with the Commissioner of Tenancies. Some Applications are lodged due to a breakdown in communication or simply, miscommunication between the parties.

To ensure natural justice is provided, the responding party receives a copy of the application to ensure they are fully aware of the complaint made. At times these complaints can be resolved with the assistance of the Senior Tenancy Officer who will provide conciliation between the parties. If resolved through the conciliation process, the matter ends there and no further action is taken.

Applications as mentioned can often be of a simple nature and easily resolved, however in some cases they can be very complex. The more complex matters generally involve compensation matters where there may have been a maintenance issue that was never repaired and the tenant is seeking compensation or where damages have occurred to the property during the tenancy and the landlord is seeking compensation for the repairs at the end of the tenancy.

Residential Tenancies Continued

If the matter cannot be conciliated, an inquiry or hearing takes place. This inquiry is performed by a Delegate of the Commissioner of Tenancies who is usually a lawyer from the Office of the Solicitor for the Northern Territory. The inquiry is similar to a court hearing whereby the Delegate reviews the Application and associated evidence and will hear further evidence from both parties if they attend the inquiry. If the Delegate is satisfied with the evidence provided at the Inquiry, an Order for either party to take action is issued. The Order is a serious matter and is Court enforceable.

If the recipient of the Order does not agree with the outcome, they have 14 days from receiving the Order to lodge an Appeal with the local court. The matter will then be heard De Novo which means 'afresh'. Northern Territory Consumer Affairs can take no further action in a matter once an Order has been issued.

If the Delegate is not satisfied with the evidence provided or further evidence is provided at the Inquiry and needs to be reviewed, the matter can be adjourned to be heard at a later date. These adjournments occur in the more complex matters where understanding the actual dispute and looking through what can be at times a very large amount of paperwork, can be very time consuming. The Delegate will often hear up to 12 or more Inquiries per day twice a week and will only hear one or two complex matters per inquiry day due to the length of time it takes to hear and consider the matters.

The number of Applications received by the Commissioner of Tenancies continues to rise with a total of 1,001 Applications received this reporting year which is an increase on the 957 received last year. The increase can be attributed to a number of factors including an increase in Territory Housing applications and tenants increasingly challenging landlords in regard to bond retention at the end of a tenancy. The tight rental market has resulted in an increase in rental prices which also equates to an increase in the bond money.

Due to these factors this financial year, kept our Call Centre very busy with a total of 7,598 residential tenancy enquiries received. The two staff members in Alice Springs alone, received a total of 1,965 calls that directly related to residential tenancy matters. Of all the calls received by the Northern Territory Consumer Affairs Office 60% relate to residential tenancy matters.

Shrinking resources has resulted in the cessation of printing hard copies of the "Guide to Renting" publication. Our reduced resource level has also resulted in the cessation of visiting property managers to provide advice and guidance in relation to the *Residential Tenancies Act*.

BUSINESS TENANCIES

Business or retail tenants are regulated by the provisions of the *Business Tenancies (Fair Dealings) Act* that is administered by Northern Territory Consumer Affairs. Most retail or commercial tenancies are caught by this Act, however there are some exemptions. An example of an exemption is a retail leases that are granted by the larger airports throughout the Northern Territory.

Landlords and tenants often contact our office where there is a dispute in rent owed or potential evictions. This year we received a total of five applications to the Commissioner of Business Tenancies. All of the applicants requested a Certificate due to a failure in resolving a business tenancy claim and an acknowledgement that conciliation would be ineffective. Once the certificate is issued, the applicant can then take the matter to court.



COMPLIANCE

COMPLIANCE UNIT ACTIVITY

The compliance unit monitors and responds to consumer protection issues and the detection of regulatory breaches across the legation administered. With a focus on emerging issues, identified risks and market place trends, Consumer Affairs delivers effective compliance outcomes and enforcement where appropriate.

We continued to work closely with other Australian Consumer Law regulators at a national level to identify cross border activity and instances of non-compliance and contributed to national and state/territory compliance and consumer protection projects.

The following represents some of the key compliance cases actioned during 2013-14:

- ❖ A case of potentially misleading advertising in a catalogue promotion was raised against Coles Liquorland in the Northern Territory.

In cooperation with Consumer Affairs the following steps were undertaken by the company:

- Corrective advertising in Northern Territory newspapers and in-store at Northern Territory Liquorland outlets;
 - Refunds offered to affected consumers;
 - Donated \$10,000 to a Northern Territory Indigenous not for profit organisation;
 - Investigation and review of Liquorland advertising policies and procedures;
 - Implementation of a targeted staff training program.
-
- ❖ An online business trading in aboriginal art was scrutinised when a desk-top audit of the web-site revealed potential breaches of the Australian Consumer Law with respect to advertising claims including testimonials, pricing and misrepresentation of consumer guarantee rights. A successful outcome was achieved including the trader voluntarily improving the website content in line with fair trading obligations and removing unsubstantiated testimonials.
-
- ❖ On 3 June 2014 a public warning was issued to alert consumers about the conduct of Joseph (Joe) Gass trading as Drover Industries, a concrete swimming pool and landscaping business. The warning followed a number of complaints and enquiries from consumers in relation to Mr Gass' alleged substandard workmanship, unreasonable delay or failure to complete installation, taking payment for work which is not completed and failing to provide refunds.

TRADER ENGAGEMENT PROGRAM

The Trader Engagement Program aims to encourage better business practices and an ongoing self-regulatory approach to facilitate a fair and efficient marketplace.

During the year this program was adopted by Northern Territory Consumer Affairs based on a model undertaken by other Australian Consumer Law regulators and endorsed by the national Compliance and Dispute Resolution Advisory Committee (CDRAC).

The program targets businesses with a high volume of Northern Territory Consumer Affairs contacts and puts the onus on businesses to focus on the root cause of identified issues to reduce consumer problems as well as to lower the cost to government and business through reduced regulator intervention.

Through a process of meeting with businesses, outlining concerns and monitoring progress against an agreed action plan, this initiative has met with some success including:

- When a local electrical services business improved its business practices by amending advertising claims, contract terms and improving consumer complaint handling processes. In this case, since the implementation of these measures consumer contacts and complaints to Northern Territory Consumer Affairs have ceased.
- When a local removalist business implemented modified contract terms and conditions and disclosure information materials to comply with the Australian Consumer Law, it resulted in reduced consumer contacts to Northern Territory Consumer Affairs.

PV SOLAR INDUSTRY

In the past year Northern Territory Consumer Affairs experienced a significantly increased level of complaint regarding photovoltaic (PV) solar panel systems, caused primarily by the conduct and subsequent collapse of two interstate companies operating in the Northern Territory.

NRE - NICK RAY ELECTRICS PTY LTD

A Queensland registered electrical contracting company, NRE-Nick Ray Electrics Pty Ltd (NRE) operated in the Northern Territory for the period April to October 2013, supplying and installing PV solar systems.

On 13 November 2013 the Commissioner of Consumer Affairs issued a public warning under section 223 of the Australian Consumer Law in relation to Nick Ray Electrics alleged substandard and non-compliant solar installations and the potential for significant consumer detriment.

Nick Ray Electrics Pty Ltd Continued

Nick Ray Electrics misconduct was reported to the Clean Energy Council (CEC) as the regulator responsible for PV solar accreditation. Consequently Nick Ray Electrics director, Nicholas Kevin Ray's accreditation was suspended effective 20 November 2013 removing his eligibility for solar credits and restricting his business operation in the PV solar sector.

Compliance officers conducted an investigation in response to 18 complaints involving 19 installations and a further 30 enquiries resulting in multiple contacts with Northern Territory Consumer Affairs.

On 7 March 2014 the Supreme Court of Queensland issued a Winding Up Order against Nick Ray Electrics and a liquidator was appointed.

During this complex investigation we worked extensively with several national and local regulators, associated solar industry entities and Northern Territory Police.

Complainants and other affected consumers were assisted in seeking alternative avenues of redress such as:

- Chargeback facilities via their financial institution
- System rectification or replacement through a linked credit provider
- Facilitation of cost free system assessments/inspections and in some cases system replacement.

GREATSOLAR SOLUTIONS PTY LTD

A South Australian PV solar supply company, Greatsolar Solutions Pty Ltd also went into voluntary administration on 28 November 2013 affecting consumers in the Northern Territory.

The company had been operating out of premises in Alice Springs after signing up approximately 200 local customers for solar panel systems under credit arrangements before closing down without notice.

The collapse of the company generated high levels of consumer contact with complaints on a range of issues including non-supply or unfinished installations, non-supply of electrical Certificates of Compliance by the installer to allow connection to the power network, system performance issues and a failure by the company to respond to consumer complaints.

Consumer concerns were compounded by the actions of a rival solar company which announced it had bought the Greatsolar business. Northern Territory Consumer Affairs responded to further enquiries and publicly urged consumers to respond with caution to alternate finance deals without proper disclosure.

ITINERANT TRADERS

We continued our efforts to combat unlawful trading by itinerant traders or travelling con men that target vulnerable groups of consumers. Unlawful traders offering services including bitumen laying, line marking and roof painting were reported in the past year.

Early intervention by adopting a rapid response to reports of the presence of such traders assists the minimisation of potential harm to consumers.

The effective use of media including social media and radio talkback has enhanced community awareness of the risks posed by travelling con men.

NATIONAL COMMITTEES

In conjunction with other consumer protection agencies Northern Territory Consumer Affairs collaborated on several national compliance projects including:

TESTIMONIALS PROJECT

The purpose of the project was to learn about the practice of using fake online reviews and testimonials as a promotional tool, consumer reliance on online reviews and the extent of any detriment caused by them.

The project focused on examining online trader testimonials as a form of misleading advertising where the testimonial was written or facilitated by the businesses itself. The aim being to identify false testimonial conduct and to survey traders within market sectors deemed to be at risk.

As part of the project Australian Consumer Law regulators surveyed 11 market sectors covering a broad range of business activity and reviewed investigations within eight market sectors for false testimonial conduct. The industries identified as being of comparatively higher risk in relation to the presence of fake testimonials included the restaurant, real estate and alternative health care sectors.

The use of substantiation notices under the Australian Consumer Law proved largely effective in achieving voluntary compliance with traders agreeing to remove unsubstantiated testimonials from the marketplace. Other compliance and enforcement outcomes have included the use of trader warning or trader education letters where potential non-compliance was detected. Other positive compliance outcomes included development of indicators to assist regulators when monitoring false testimonial activity.

WAS/NOW PRICING PROJECT

The objective of this project is to monitor the retail sector for the use of Was/Now Pricing in offering and supplying goods for sale at reduced or sale prices.

Australian Consumer Law regulators targeted high volume retailers to review representations and those offering goods at heavily discounted prices from the advertised 'was' price.

Australian Consumer Law notices have been issued to 41 traders to substantiate the advertised claims of discounted price offers. Enforcement action is proposed where instances of non-compliance are identified. This project will continue into 2014-2015.

EXTENDED WARRANTIES PROJECT

This project which commenced in 2012-2013 was finalised in the past year.

Australian Consumer Law regulators used covert operations to record the representations made by businesses in the sale of extended warranties. The principal concern being that some businesses were misrepresenting the statutory protections freely available to consumers under the consumer guarantee provisions of the Australian Consumer Law.

As a result five matters were referred for investigation, warning letters were issued to 15 traders and 72 traders received educational letters about their statutory obligations under the Australian Consumer Law.

STATISTICS

Investigations conducted	21
Investigations concluded	17
Complaints withdrawn or where no breach was disclosed	3
Complaints referred to other organisations	5
Traders placed on notice	3
Investigations referred for prosecution	0
Trader visits	12
Compliance education provided	19

RETIREMENT VILLAGES ACT

The *Retirement Villages Act* in the Northern Territory is administered by Northern Territory Consumer Affairs. Advice and assistance is provided to both residents and operators of retirement villages by Northern Territory Consumer Affairs. In this reporting period five people contacted Northern Territory Consumer Affairs to ask for advice. The advice provided related to a range of issues including common ground provisions at a particular retirement village, a contractual issue, where the caller was advised to seek legal advice, budget requirement advice and village rules advice.

The Commissioner of Consumer Affairs and the Deputy Commissioner meet regularly with senior staff from the Masonic Homes Tiwi Village. The close relationship with Tiwi Village has ensured that senior village staff are fully aware of their requirements under the Act and are aware that they can contact our Office for advice when needed.



CARAVAN PARKS ACT

Caravan parks in the Northern Territory are regulated by the *Caravan Parks Act*. This Act is administered by Northern Territory Consumer Affairs. The call centre received nine calls this financial year in relation to caravan parks. The calls related to a variety of matters including the time a resident has to live at a caravan park to be captured by the Act and what constitutes a caravan park. Other general information was also provided however no applications were received during the reporting period.

OTHER STATUTORY RESPONSIBILITIES

The Commissioner of Consumer Affairs is the statutory officer responsible for a number of pieces of legislation that government has directed, through the Administrative Orders; the responsibility for management of these pieces of legislation is placed with the Department of Business.

The Commissioner has also delegated authority for a number of tasks to staff within the Department of Business.

The following are Acts or Regulations of this nature:

Associations Act

Commercial and Private Agents Licensing Act

The Consumer Affairs and Fair Trading Act – Parts 10, 11 and 14

Consumer Affairs and Fair Trading (Tow Truck Operators Code of Practice Regulations).