

# Consumer Representation on Boards and Committees

A GUIDE FOR INDUSTRY AND GOVERNMENT

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## What is a consumer?

A consumer is someone who is, or may be, a buyer or user of goods or services, for personal or domestic use.

## Rights of consumers

The consumer movement, through Consumers International, has adopted a charter of eight generic rights of all consumers<sup>1</sup>.

- **Satisfaction of basic needs:** to have access to basic, essential goods and services: adequate food, clothing, shelter, health care, education, public utilities, water and sanitation.
- **Safety:** to be protected against products, production processes and services which are hazardous to health or life.
- **Be informed:** to be given the facts needed to make an informed choice and to be protected against dishonest or misleading advertising and labelling.
- **Choice:** to be able to select from a range of products and services, offered at competitive prices with an assurance of satisfactory quality.
- **Be heard:** to have consumer interests represented in the making and execution of government policy and in the development of products and services.
- **Redress:** to receive a fair settlement of just claims, including compensation for misrepresentation, shoddy goods or unsatisfactory services.
- **Consumer education:** to acquire knowledge and skills needed to make informed, confident choices about goods and services, while being aware of basic consumer rights and responsibilities and how to act on them.
- **A healthy environment:** to live and work in an environment, which is non-threatening to the well being of present and future generations.

<sup>1</sup> Sourced from: Consumers International, *How are consumer rights defined?* World Consumer Day, History and Purpose, <http://www.consumersinternational.org>

## Introduction

This booklet has been written to encourage those in government and industry who are forming boards or committees to include consumer representatives as members if the work of the board or committee is likely to impact on consumers, as individuals, or the consumer marketplace generally. The value of including consumer representatives is outlined, together with their role in representing the consumer interest. Suggestions for recruiting effective consumer representatives are provided. The challenges that face consumer representatives are noted, together with suggestions as to how consumer representatives can be supported to ensure that they are able to effectively represent the interests of consumers.

This booklet is focussed on the role of consumer representatives who are appointed to boards and committees of various types. The generic terms of “committee” and “board” have been used through the booklet, but the terms are intended to encompass councils, working parties or other similar groups.

## Value of effective representation

It is in the best interests of government and industry boards and committees to gain a full understanding of the potential impacts of their activities and decisions, and an appreciation of the groups in the community that are likely to be affected. As such, any committee that deals with issues affecting consumers will need to find effective and efficient ways of understanding the impacts of their activities and decisions on consumers. One method of ensuring high quality, ongoing input into its work is to include one or more consumer representatives on the board or committee. Good consumer representatives can contribute to successful outcomes being achieved, because they will ensure that the consumer interest is appropriately considered in the decision-making process.

## What can consumer representatives provide?

Consumer representatives will add value and integrity to the decision-making processes of boards and committees, and will ensure that the diversity of consumers is acknowledged, respected and adequately represented. Consumer representatives can help a board or committee by:

- explaining how consumers are likely to view a situation or problem;
- identifying what consumers are likely to view as the priorities in a particular situation;
- suggesting how the consumer perspective relates to the view of other stakeholders;
- anticipating what the consumer response might be to devised strategies;
- offering solutions to a problem that will meet the needs of consumers; and
- predicting how their constituency will respond to proposals and ideas.

The diversity of viewpoints that consumer representatives are likely to contribute to discussions will enrich the strategies and decisions arrived at by the board or committee. To benefit fully from the contribution of consumer representatives, committee members need to welcome and explore opinions, suggestions or conclusions offered, and perhaps seek justification of the views expressed.

## Consumer representatives

A consumer representative is appointed to a board or committee to represent the interests or perspectives of consumers. The consumer representative may be appointed either to represent the consumer interest generally, or to represent the views of a specific group, for example, a group of consumers with special needs.

A consumer representative must be prepared to represent the interests of consumers as a group, and not to simply provide a narrow personal view of any issue. Keeping in touch with a network of consumer contacts will help to provide that broad view of the consumer interest.

Consumer representatives will need to have some understanding of the issues and the industry in question. However, to be effective, they must be sufficiently distant from the industry to be able to represent the consumer interest objectively and assertively.

The role of a consumer representative in any particular situation must be to represent *only* the interests of consumers. It is not sufficient to suggest that, “we are all

consumers, so we can all represent the consumer interest.” One individual cannot adequately represent the consumer interest as well as the interests of another stakeholder group in any given industry or government sector, and should not be asked to do so. A board or committee member who is expected to represent the interests of both consumers and another stakeholder group may encounter a situation in which those interests differ, and perhaps even conflict. A committee member should never be put in the position of encountering such conflicts of interests.

### **The role of a consumer representative**

The role of a consumer representative is to bring a consumer perspective to all discussions and decision-making of the board or committee on which he or she sits. The consumer representative needs to critically evaluate the business of the committee in light of the consumer interest. Sometimes proposals being considered by the board or committee will not meet the needs of consumers. In such cases the consumer representative should present the consumer view persuasively and may need to develop alternative suggestions that better meet the needs of consumers.

### **Qualities of an effective consumer representative**

Effective consumer representatives will be able to:

- address all issues from the perspective of the consumer;
- develop and maintain relationships with the people and groups they represent;
- use strong communication skills, or develop those skills with the appropriate training and support;
- respect diversity;
- work effectively in a team environment;
- understand, commit to and maintain confidentiality when it is required;
- maintain an interest in current affairs and news, especially those issues relevant to consumers and to the committees on which they sit;

- participate in community activities that are relevant to their consumer networks;
- have a broad community network with which to consult regularly;
- be accessible to the consumer groups they represent; and
- bring to the committee some understanding of the issues and the industry in question.

Newly appointed consumer representatives may bring these attributes to the role, or may be committed to developing these skills and abilities in order to effectively represent their constituency.

### **Responsibilities of a consumer representative**

Consumer representatives will represent one or more consumer constituencies. Their responsibilities are to:

- maintain an active network within their constituencies and keep in contact with other consumer representatives;
- anticipate and describe the impact on the consumers they represent of issues discussed by the board or committee;
- predict the response of their constituencies to any strategies proposed by the committee, particularly when direct consultation with consumers is not possible;
- keep in touch with their constituencies and keep them informed about the activities of the committee, within reasonable bounds of confidentiality;
- contribute, as a positive member, both to the credibility and the overall role and direction of the board or committee;
- encourage the committee to actively consult with consumers and advise about effective methods of consultation;
- encourage the committee to keep consumers informed about decisions of the committee and advise about effective methods of reaching their consumer constituencies.

## Consumer constituencies

The group of consumers being represented is sometimes called a “constituency”. The group of consumers, or constituency, has common interests as consumers, and they are these interests that are being represented. Because of these common interests, the group relationship is based on sharing information, collaboration and ongoing contacts.

### Diversity of consumer constituencies

There are many diverse constituencies amongst consumers, just as there are a number of constituencies in medicine (e.g. pharmacists, surgeons, nurses and hospital administrators) or in building (e.g. carpenters, concrete workers and electricians). Indigenous Australians, people with low incomes, seniors and youth are likely to have many interests in common as consumers, but also may have issues or needs specific to their particular group.

It is important that all relevant consumer groups are represented on a board or committee, especially those groups of consumers who are considered vulnerable or disadvantaged. For example, consumers may be considered vulnerable or disadvantaged if they:

- have poor reading, writing or numerical skills;
- have a physical, intellectual or psychiatric disability;
- are from a non-English speaking background;
- live in remote areas;
- are young and inexperienced as consumers; or
- are older and perhaps less able to deal with the contemporary marketplace.

Representation of the key consumer groups with an interest in the work of a board or committee will ensure that the concerns of those groups are taken into consideration in all decision-making. In addition, a clear understanding of the consumer constituencies represented will assist the board or committee in recognising when it needs to consult consumers more broadly.

## Networking requirements

To be effective, consumer representatives need to keep in touch with the consumers they represent, and to actively collaborate and share information with that network. Consumer representatives need to both provide information to and gain information from their network.

Within reasonable bounds of confidentiality, consumer representatives need to be able to keep their constituencies informed about:

- the actions or decisions being considered by the board or committee;
- the positions they are putting to the board or committee on behalf of their constituent; and
- the decisions being made by the board or committee.

## Recruiting effective consumer representatives

When forming a board or committee consideration should be given to the various consumer constituencies that might be impacted by the activities and decisions of the board or committee, and whether those constituencies may have special needs. This information will guide decisions about the number, nature, background and experience of consumer representatives that will maximise the benefit to the board or committee.

## Attracting effective consumer representatives

There are five steps that will assist any board or committee in locating and appointing effective consumer representatives:

- Step 1 - examine the terms of reference, constitution or legislation that establishes the board or committee to identify the role of consumer representatives;
- Step 2 - draft selection criteria for the consumer representatives that will ensure they have the skills and abilities required for the role;
- Step 3 - prepare information about terms of appointment for potential consumer representatives;

- Step 4 - provide all of this information to a wide network of individuals and groups that might nominate appropriate people for the role; and
- Step 5 - appoint the consumer representatives and assist them in getting started in their roles.

### **STEP 1 - Terms of reference, constitution or legislation**

The terms of reference, constitution or legislation establishing a board or committee will provide guidance about its role, functions and powers. This information should indicate the extent to which the work and decisions of the board or committee is likely to impact on consumers and the consumer marketplace, and will guide decisions about the extent and nature of consumer representation that will be of benefit to the board or committee.

If the activities or decisions of a board or committee are likely to impact directly on consumers as individuals or on the consumer marketplace generally, then the consumer interest should be represented. If the board or committee is involved with an industry or government department that either directly or indirectly provides services to consumers, or with an industry that provides goods to consumers, then the consumer interest should be actively taken into account in any decision-making.

#### How many members are needed to represent the consumer interest?

The involvement of consumer representatives will bring diversity to the ideas and strategies being considered by a board or committee. However, decisions about the optimum number of consumer representatives to be appointed will depend on a number of factors such as the size of the board or committee, its role and functions, and the diversity of consumers potentially impacted by the activities and decisions of the board or committee.

Regardless of the number of consumer representatives appointed to a board or committee, there needs to be an appropriate balance in representation amongst key stakeholder groups. In particular, an appropriate balance needs to be achieved between the number of consumer representatives and the number of industry representatives on boards and committees.

## STEP 2 - Criteria for the selection of consumer representatives

One of the keys to finding effective consumer representatives is to construct an appropriate set of criteria to guide the selection process. The criteria will provide an objective basis for selecting consumer representatives, and will contribute to the transparency of the process.

There are two aspects to consider when developing the selection criteria:

- the consumer constituencies they are to represent, which will largely be determined by their networks and contacts; and
- the level of knowledge and experience required.

In determining the consumer constituencies that need to be represented, consider factors such as age, gender, ethnicity, geographical location and relative socio-economic advantage/disadvantage. For example, you may want to consult Indigenous Australians, who primarily span middle age; or perhaps mothers with young children; or people who live in regional or remote areas. If the selection criteria specify the consumer constituencies that need to be represented on the board or committee, then those applying for or expressing interest in appointment can be expected to provide evidence of their suitability to represent those constituencies.

In developing the selection criteria, consider also the level of knowledge and experience, and the skills required for the consumer representative to participate as an effective member of the board or committee. Consumer representatives cannot be expected to have an in-depth understanding of the relevant industry or government department. However, they should have an understanding of the products or services provided to consumers, and of the nature of consumer interaction with the industry or government department.

The *Qualities of an effective consumer representative* provided earlier in this publication provide a good basis for developing selection criteria about the skills and abilities required. In addition, it may be advantageous if the consumer representative has had previous experience on boards or committees as a

consumer representative or in some other capacity or can demonstrate a strong history of working constructively in groups. Include any of these essential attributes in the selection criteria.

### **STEP 3 - Terms of appointment**

Potential consumer representatives need to have some information about the nature of the appointment before they agree to participate as a member of a board or committee. For example, information about the length of appointment and the time commitment required for members will be important from the outset.

Consumer representatives should be paid sitting fees and reimbursed for reasonable travel and out-of-pocket expenses associated with attending meetings. However, this does not always happen. Since costs can be a barrier for consumer representatives, anyone considering appointment to a board or committee should be given information about sitting fees and reimbursement at an early stage.

Members of some councils or boards of directors may take on legal obligations in that role. It is important that prospective consumer representatives are clearly informed about any such legal responsibilities and potential liabilities.

### **STEP 4 - Provide full information when seeking nominees**

It is wise to seek nominations to positions as consumer representatives through established networks, and perhaps to advertise the positions in community and local newspapers, and on the internet. Targeting networks relevant to the consumer constituencies that need to be represented, and seeking applications or expressions of interest, may be an effective and efficient way of finding high quality consumer representatives.

#### Consumer Protection Panel

The Department of Consumer and Employment Protection in Western Australia maintains a register of people who are interested in becoming consumer representatives on consumer protection boards and committees. The register is called the Consumer Protection Panel. It is used to identify potential

consumer representatives for boards and committees, and to find consumers willing to participate in consultation processes regarding consumer protection policy and other initiatives. The Consumer Protection Panel can be used as a source of consumer representatives for a variety of purposes.

For more information contact the Consumer Protection Call Centre:  
1300 30 40 54

### **Step 5 – Appointing consumer representatives**

When new consumer representatives are appointed, it is important to provide the assistance and support that will ensure they can quickly become effective in the role.

#### What information and training will you supply?

It is highly desirable for all consumer representatives to receive an information package, and to take part in an induction program, prior to their first encounter with the board or committee to which they have been appointed. Consumer representatives should be given an appropriate information package, including material such as the board or committee's constitution, terms of reference or relevant legislation, copies of some previous minutes and meeting dates.

If an induction program is not available, the new consumer representative could be assisted by:

- having personal contact with the Chairperson or Executive Officer, and request an opportunity for the consumer representative to obtain advice and guidance; or
- introducing the consumer representative to a more experienced consumer representative on the committee who can act as a mentor.

Whilst there are alternatives to formal induction to a board or committee, government and industry need to ensure that, as the desire and need for consumer representation increases, formal induction options are made available.

### When and where will the meetings occur?

The timing and location of meetings needs to take into account the constraints of all involved. Choosing a suitable time and a location that is closest for the majority is always worth consideration. While face-to-face meetings are essential for people to get to know each other, consultation via telephone and email can take place between meetings.

Consumer representatives can be faced with the need to take unpaid leave from work to attend meetings. In such cases, they should be compensated for the loss of income by the payment of appropriate sitting fees.

Alternatively, the meeting time could be moved to a non-work day.

## **Challenges encountered by consumer representatives**

Consumer representatives on boards and committees face many common challenges. It is important that consumer representatives are supported and assisted in dealing with these situations, in order for them to effectively fulfil their roles.

### **The minority status of consumer representatives**

Many boards and committees include only one or two consumer representatives, with a majority of members representing government or industry stakeholders.

This imbalance in numbers can cause a sense of isolation for consumer representatives, particularly if the consumer representative has a perspective that differs from all or most other members. This imbalance could be addressed by changing the structure and membership of the committee. However, if the structure of the committee cannot be changed, the imbalance should be addressed through meeting procedures.

To overcome an imbalance of viewpoints:

- ensure that equal time is allowed for consumer representatives to speak;
- encourage other members to respect the consumer representative's viewpoint as being of equal value; and
- support the right of the consumer representative to offer a different viewpoint.

## The principles of natural justice

Natural justice is an important principle for members of boards and committees. The principles of natural justice require members to act without bias and in good faith in relation to any matter considered by the committee.

In procedural terms, the principles of natural justice require members to declare any potential conflicts of interests in relation to any matter on the agenda, and to withdraw from debate and decision-making on that particular matter. On the other hand, those perceived to have a conflict also have the right to rebut that perception.

## Training and support

Consumer representatives may need training and support to fulfil their roles effectively. Many professional people have experience with committee work, and are accustomed to meeting processes and issues of confidentiality. However, consumer representatives may not be so familiar with the terms, procedures and issues associated with the work of boards and committees.

Consumer representatives can be assisted by being offered:

- an induction program or information package when they join a board or committee;
- an opportunity to participate in relevant training;
- information clearly defining the results the board or committee has produced and expects;
- assistance and support in dealing with unfamiliar professional practices and meetings procedures;
- an explanation about how the meetings are run, and about any meeting rules and standing orders; and
- information about meeting times and dates and about the payment of sitting fees and reimbursement of expenses.

## Fees and expenses

For many representatives of government and industry, their membership of a board or committee is part of their professional role and work responsibilities. They are able to attend meetings during working hours and may have expenses met by their employer. The situation of most consumer representatives is very different.

Consumer representatives usually undertake their role as a board or committee member during their personal time, and have little access to resources to assist them in fulfilling their duties as a member. To ensure they have the opportunity to fully participate as members, the reasonable expenses of consumer representatives need to be met by the board or committee. These expenses can include loss of salary, parking or other travel costs, child care, postage and stationery, computer infrastructure or facsimile facilities, phones and photocopying.

To assist consumer representatives:

- sitting fees should be paid for all meetings associated with the work of the board or committee;
- all reasonable out-of-pocket expenses should be met by the board or committee;
- consideration should be given to scheduling meetings at a time when the consumer representative will not suffer a loss of income; and
- travel and accommodation should be provided for regionally-based consumer representatives.

## Confidentiality

Some information provided to members of boards and committees may be confidential and therefore cannot be shared with others outside the board or committee structure. Occasionally members of a board or committee are asked to formalise confidentiality arrangements by signing explicit confidentiality agreements. More often the confidentiality of information obtained through membership is implicitly understood.

The expectation that information obtained through membership of a board or committee is confidential is not necessarily a problem. However, consumer representatives encounter a dilemma when such expectations of confidentiality prevent them from consulting with their consumer constituencies.

The real value of consumer representatives to a board or committee is their knowledge and understanding of their constituencies, and their ability to predict how certain actions might impact on their constituencies and how those constituencies are likely to respond. If consumer representatives are unable to consult with their constituencies, they will become isolated from those constituencies and their ability to add value to the decision-making process will be diminished.

The potential conflict between the need for confidentiality and need to consult can be overcome by requiring members to maintain confidentiality of information only when it is essential. When consumer representatives join the committee, make sure that their induction includes an explanation of the need for confidentiality and how it applies to the work of the particular committee. Similarly, ensure that a few minutes is spent at the end of each meeting, or following discussion of particular agenda items, clarifying exactly what information must remain confidential to the board or committee and what can be said publicly.

### **Conflict between members**

Issues for discussion at meetings often have emotional components. Members may present their views passionately, and sometimes conflict between members can occur. It is important that conflict, should it arise, is resolved by the conclusion of the meeting. It is the Chairperson's responsibility to ensure that this resolution occurs, but it is every member's responsibility to communicate fairly and diplomatically at meetings.

### **Grievance procedure**

A grievance procedure provides an avenue for board or committee members to express complaints and seek remedies. A grievance procedure should be in place

for a board or committee, and new members should be advised about the procedures during their induction. Consumer representatives should find out what the procedures are for dealing with a grievance, so they are prepared, should a negative situation arise.

If the board or committee has no formal grievance procedure, members should be advised to approach the Chairperson for assistance. The Chairperson's role includes responsibility for hearing such grievances and finding processes to adequately deal with them.

### **Helping consumer representatives to be effective: guidelines for Chairpersons**

The style of leadership adopted by the Chairperson can have a particular impact on the effectiveness of consumer representatives appointed to a board or committee. Consumer representatives often report that they feel isolated, particularly if they are in the minority and are experiencing conflict with members representing other stakeholder groups. Consumer representatives also can feel daunted by the task of representing a vast and diverse constituency, particularly when the consumer interest is represented by only one member of a board or committee.

General responsibility for alleviating any negative feelings experienced by a consumer representative generally lies with the group as a whole. Nevertheless, the Chairperson of the board or committee is most likely to be in a position to facilitate effective group processes. The group will operate most effectively if all members, including consumer representatives, feel equal to their counterparts and perceive that their views and values are respected.

#### **Role of the Chairperson**

A Chairperson's primary role is to preside over meetings and manage the group processes. The Chairperson is pivotal in setting the tone at meetings and influencing the way in which the group works together. He or she is also a member of the group in their own right.

As the presiding officer, the Chairperson has:

- a duty to see that he or she only presides over meetings that are properly convened, with a quorum present, and proceedings being conducted in accordance with any standing orders; and
- responsibility for managing the process of the meeting and the business addressed.

Of course, the Chairperson also must ensure that he or she does not control the content of discussion at the meeting or the nature of decisions made. The Chairperson cannot overrule or disregard the opinion of members. Indeed, to ensure fairness, the Chairperson must be impartial, particularly in their rulings.

### **Positive and participative Chairperson**

Consumer representatives find certain elements of leadership particularly helpful in ensuring that they are able to fulfil their roles effectively. It is advantageous to consumer representatives, and other members, if the Chairperson has established communication rules, which make it very clear that all members are expected to:

- treat each other courteously at all times;
- treat every member and their ideas seriously;
- make decisions as a whole group working together and reaching agreement;
- avoid bringing personal and professional differences into the group unless it is entirely appropriate; and
- maintain their expertise as a consumer representative by networking with their constituencies within the bounds of reasonable confidentiality expectations.

In addition the Chairperson should:

- greet everyone by name and talk to all members informally during breaks so that all members feel welcome;

- grant every member the opportunity to address each issue so that forceful or outspoken members do not dominate discussion;
- apply the principles of natural justice;
- ensure that members understand what information is confidential and what can be made public, and suggest how they might achieve this balance in order to facilitate appropriate consultation with constituencies;
- make sure everyone has access to the same information, which may mean that additional information is made available to those who are not part of the organisation/department/industry;
- consciously build cohesion and trust within the group;
- be open-minded and foster respect within the group;
- make sure no member uses the Chairperson to promote their view over others; and
- deal immediately and effectively with conflict.


A skilful Chairperson will facilitate meetings so that consumer representatives are able to effectively represent their consumer constituencies and thereby contribute to the activities and decision-making of the board or committee. In doing so, the Chairperson will ensure that the board or committee realises the full value of including consumer representatives, and benefits from their contribution to achieving successful outcomes.



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## Consumer Advisory Council

As part of the Consumer Justice Strategy the then Minister for Consumer and Employment Protection, the Hon John Kobelke MLA, established the Consumer Advisory Council to advise the Department and Minister on consumer protection matters from the consumers' perspective.

The purpose of the Council is to strengthen the voice of WA consumers. The two specific terms of reference require the Council to:

- advise the Minister and Department on strategic approaches to building capacity in consumer groups so as to increase and improve consumer input in consumer affairs; and
- advise the Minister and Department in the review of the *Consumer Affairs Act, 1971* and *Fair Trading Act, 1987*.

## Copies of this brochure

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