



WEIGHT MANAGEMENT CODE OF PRACTICE

Eighth Edition
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This Code of Practice has been developed by representatives of the weight management industry, consumer organisations, health and nutrition professionals and state and federal government consumer affairs departments.

It provides a comprehensive guide for the protection of consumers' rights and the conduct of weight management businesses.

The Code is administered by Weight Management Council Australia Limited, which has responsibility for Code development and managing its members' compliance with the Code.

The Council was incorporated as a company limited by guarantee under the Corporations Law on 3 June 1997.

The Board of the Council is chaired by an independent chairperson - Professor Gary Wittert.

The Board includes representatives of the following organisations:

- Nutrition Australia
- Consumers' Federation of Australia Inc
- Fortuity Pty Ltd t/a as Weight Watchers
- Nestle Health Science

The current members of the Council are:

- Fortuity Pty Ltd t/a Weight Watchers
- Nestle Health Science

Further information about the Council is available on its website: www.weightcouncil.org

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WEIGHT MANAGEMENT CODE OF PRACTICE

1. APPLICATION OF THE CODE

Members of the Weight Management Council Australia Ltd (**the Council**) are bound by the Weight Management Code of Practice.

2. PRINCIPLES

The agreed standards upon which the Code is based, recognise and affirm the following consumer rights:

- to be informed;
- to choose;
- to be heard;
- to redress;
- to educate consumers about weight management products and services;
- to be provided with safe and effective weight management products and services;
- to receive products and services that are nutritionally sound;
- that weight management products available are efficacious.

2A INTERPRETATION

In this Code, unless the contrary intention appears:

Code means this Weight Management Code of Practice;

Codex means Codex Alimentarius Commission (International Food Standards)

Codex Stan 203-1995 means Codex Standard for Formula Foods for Use in Very Low Energy Diets for Weight Reduction

Complaints Committee means a committee appointed by the board of the Council in order to resolve disputes between Members and consumers;

Complaint Handling Procedures are the complaint handling procedures administered by the Complaints Committee and described in Annexure 4;

Contract means a written contract and/or online terms and conditions.

Cooling off period means the period referring to in clause 7.1 during which a consumer may terminate their contract;

Food Standards Code means the Australia New Zealand Food Standards Code;

Formulated Meal Replacement has the same meaning as in Standard 2.9.3 of the Food Standards Code and is a single food or pre-packaged selection of foods that is sold as a replacement for one or more of the daily meals but not as a total diet replacement;

FSANZ means Food Standards Australia and New Zealand;

Health Screening Questionnaire means the questions described item 4 of the Health Assessment Guidelines attached as Annexure 1;

Member means a member of the Council;

Registered Medicines (Non-prescription) means Registered Medicines (Non-prescription) as defined by the Therapeutic Goods Administration;

Registered Medicines (Prescription) means Registered Medicines (prescription) as defined by the Therapeutic Goods Administration;

Slimming Advertising Guidelines are the Slimming Advertising Guidelines attached as Annexure 2 to this Code;

Signs a contract means signs a written contract or accepts online terms and conditions

Standard 2.9.3 means FSANZ Standard 2.9.3 entitled Formulated Meal Replacements and Formulated Supplementary Foods as amended from time to time;

Training Competencies are the Weight Management Industry Training Competencies attached as Annexure 3;

Very Low Energy Diets refer to formula based diets, to achieve restricted energy intake while maintaining minimum intake of essential nutrients, for the management of obesity. They may constitute the sole source of nutrition for the persons for whom the formulation is intended when it is used in accordance with the manufacturer's directions.

3. OBJECTIVES OF THE CODE OF PRACTICE

- 3.1 To ensure that the advertising by Members gives accurate information about costs and the likelihood of success of weight management products and services.
- 3.2 To ensure that members providing weight management products and services deal openly, honestly and fairly with consumers and represent themselves in accordance with their training and accreditation.
- 3.3 To enable consumers to make informed choices about the weight management products and services they purchase.
- 3.4 To achieve standardised and recognised training and qualifications for those providing weight management products and services.
- 3.5 To ensure that consumers are informed about their legal rights and the Code before they enter into a contract.
- 3.6 To ensure timely and appropriate resolution of disputes within an established framework of dispute resolution mechanisms.

- 3.7 To ensure that weight management products and services do not compromise health status and are supported by sound food technology and nutritional science.
- 3.8 To ensure that Members actively promote the Code to their clients and potential clients.

4. ADVERTISING

- 4.1 All advertisements or marketing practices by Members must be truthful and accurate in content and intent. All advertisements and marketing practices by Members must not mislead consumers or be likely to mislead consumers.

Note: Misleading consumers may include, amongst other things, making false or misleading representations to a consumer as to:

- (a) the price of weight management products or services;
 - (b) the benefits of weight management products or services; or
 - (c) the need for any weight management products or services.
- 4.2 If any cost is stated there should be full disclosure of what entitlements that cost covers. In addition, a statement of any other products or services that are a necessary component of the weight management program must be included, including any additional cost.
 - 4.3 Members must comply with the Slimming Advertising Guidelines – Annexure 2.

5. DISCLOSURE

- 5.1 Members must display at each of their places of business a copy of their certificate of membership of the Council and prominently highlight on their websites their membership of the Council and a link to its website.
- 5.2 Members must disclose all information that consumers request and ensure that the information provided is truthful, accurate and unambiguous.
- 5.3 Members must produce and provide to each consumer in person, mail or via their websites an information sheet/brochure/pamphlet outlining the nature of their weight management products and services. Members must ensure that such promotional material is truthful, accurate and unambiguous.
- 5.3A Members must ensure that all promotional material does not make misleading or false comparisons with products or services offered by competitors.
- 5.4 Members must produce in person, mail or via their websites an information sheet/brochure/pamphlet outlining the consumer's rights in relation to the purchase of the weight management products and services. This information must include the Member's refund policy
- 5.5 Members must point out their membership of the code to consumers and make copies of the Code easily accessible.

- 5.6 At the initial contact (including online) and/or before the consumer accepts the contract terms and conditions the following must be provided to the consumer:

Products & Services

1. the way the weight management products and services operate and what is required by the consumer,
2. where applicable the number of visits in any given time frame that are either required or available and what is considered optimal.
3. whether the visits (if applicable) are a mix of education/information/exercise/evaluation;
4. whether the weight management products and services involve the purchase of pre-packaged food/meal replacement/or certain foods;
5. information that outlines consumers rights must be provided, which includes the member's policy on refunds, dispute resolution and the cooling off period.

Consumer obligations

1. the commitment that is required by the consumer to ensure the weight management products and services are successful, including the number and nature of visits;
2. the circumstances in which a client may need to seek medical advice prior to the commencement of the program;

Contract & costs

1. any contracts in simple and clear language;
2. the contract should clearly outline the cost of the consumer's weight management program, how the cost of the weight management products and services is to be calculated, for example if a person undertook a weight management program for three months, then the estimated cost of that program should be provided.
3. Where a program requires a weekly menu and/or meal replacements and total weekly costs will be provided.

6. CONTRACTUAL AGREEMENTS

- 6.1 Unless otherwise expressly provided in this Code, all contracts must be in writing in at least 10 pt font, stating in plain and legible English the rights and responsibilities of both the consumer and the Member and must comply with the laws of the state or territory in question.
- 6.2 Consumers for whom English is not a first language and who wish to purchase in person (face to face or by telephone) should be advised to contact an interpreter service to ensure that the contractual agreement, cooling off period and refund policy is fully understood before the consumer signs the contract.
- 6.3 Contracts must not contain unfair terms. A contract term will be considered to be unfair if it causes a significant imbalance in the parties' rights and obligations arising under the contract to the detriment of the consumer. Under no circumstances should the contract attempt to exclude any statutory protection.

6.4 The contract must clearly identify the following:

- the parties to the contract;
- the weight management products and services to be provided;
- the cost of the weight management products and services, including all fees payable or that may be payable under the contract and itemised so that it is clear what the consumer is paying for;
- the frequency of all amounts payable under the contract;
- the minimum term of the contract; and what the consumer undertakes to do.

6.5 The contract must indicate that there are procedures that must be followed in the case of a complaint or dispute, which are annexed (e.g. provided on line) or included as part of the contract.

6.6 All contracts relating to the provision of weight management products and services should contain a clause stating that the Member agrees to comply with the Code.

6.7 Contracts must not bind clients to weight management products and services for more than a period of 12 months, after which the contract can be renewed if the client wishes to continue using the weight management products and services.

6.8 The clause in the contract providing for the cooling off period must comply with the requirements of clauses 7.5 and 7.6 and must be drawn to the attention of the customer at the point of sale.

7. COOLING OFF PERIOD

7.1 A cooling-off period of five (5) days, subject to the laws of the state or territory in question, will apply to all pre-paid weight management products and services costing in excess of \$50 from the date a consumer signs a contract with a Member. If a contract is cancelled by the consumer within the cooling-off period, the Member will release the consumer from all liabilities under the contract and, subject to clause 7.2 and 7.3, refund all monies paid by the consumer.

7.2 Notwithstanding clause 7.1, providing the Member has not breached the Code, if any service of a professional nature is provided within the cooling off period, for example, by a doctor, dietician, nutritionist or psychologist, the consumer must pay for the service in accordance with the Member's scheduled fees.

7.3 If any weight management products and services (with the exception of fresh or frozen foods) are provided within the cooling off period, these must be returned by the consumer unused with the packaging, if any, intact. If these products are not returned within the cooling off period they must be paid for by the consumer at the scheduled price.

- 7.4 Cancellation of a contract during the cooling off period must be in writing and the cancellation notice must be served by:
- (a) delivering it in person or having it delivered to the relevant Member's place of business.
 - (b) posting the notice to the Member's place of business by registered mail within five (5) days of entering into the contract. Service by post shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the cancellation notice through Australia Post.
 - (c) faxing or emailing the notice to the Member's place of business within five (5) days of entering the contract.
- 7.5 Notice of the cooling off period must be given to a consumer in bold type, not less than 10 point in size, and must be prominently displayed in the body of the contract which must include the following:
- (a) advice to the consumer that he or she may cancel the agreement at any time prior to 5pm on the fifth day following the date of the contract;
 - (b) for the consumer to cancel the agreement he or she must mail/fax/e-mail/deliver notice to the Member in accordance with the provisions of clause 7.
- 7.6 In an online sale, notice of the cooling off period must be drawn to the attention of the consumer and must include the following:
- (a) advice to the consumer that he or she may cancel the agreement at any time prior to 5pm on the fifth day following the date of the contract;
 - (b) for the consumer to cancel the agreement, he or she must mail/fax/email/deliver notice to the Member in accordance with the provisions of clause 7.

8. REFUND

- 8.1 Subject to clause 8.3, all refunds allowable under the Code shall be provided, in the ordinary course of events, within 30 days following the date of the written request by the consumer.
- 8.2 Consumers requesting a refund can do so in writing or verbally. In either written or verbal requests, consumers must set out the reasons for the request. Any request form must also set out the date the refund was requested. Members must provide consumers with the relevant Member's refund policy and the name of the person with authority to process the refund.
- 8.3 Any direct debit arrangement must be cancelled within 14 days of the receipt of the written request for a refund.

- 8.4 Members must provide a pro rata refund in respect of weight management products and services in the following circumstances:
- (a) where a consumer has been diagnosed by a medical practitioner to have a physical or mental illness and where it would be detrimental to continue the weight management products and services and this is substantiated by a medical certificate;
 - (b) relocation of residential address to a distance that would entail the consumer travelling an additional 20 kilometres or more to a Member's place of business and correspondence or long distance weight;
 - (c) management products and services are not considered to be suitable by the consumer; and
 - (d) if the consumer dies, his or her executors shall be entitled to the amount of monies remaining under the contract.
- 8.5 Pro-rata refunds are to be calculated according to the total purchase price and the number of remaining days or visits in relation to the weight management products and services.
- 8.6 If a weight management product and service consists only of the provision of food products, vitamin pills or supplements and these are provided in the form of regular consignments, then the consumer must be entitled to a refund of the unused goods for the period of agreed consignment.

9. COMPLAINT RESOLUTION

- 9.1 Complaints must in the first instance be resolved between the Member and the consumer; and thereafter as required by the Complaints Committee to which final power of resolution is accorded.
- 9.2 Members must develop clear procedures in writing for the internal resolution of complaints such as *AS 4269 - 1995 Australian Standard for Complaints Handling* and the specific requirements in clause 9.3.
- 9.3 Notwithstanding clause 9.2 specific requirements relating to the resolution of complaints must be:
- that where possible the complaint be resolved between the consumer and Member;
 - the complaint must be referred to the complaints officer/customer care centre who/that has the authority to resolve complaints and contact details must be provided to the consumer;
 - at each step in the process the consumer must be informed of where they are in the process and the identity of the person dealing with the dispute;
 - Members must ensure that consumers are able to access all relevant documents;
 - decisions made by Members in relation to complaints must be provided in writing and include reasons for the decision; and
 - Members must notify the consumer of the outcome of their complaint within 14 days of the complaint being made.

- 9.4 Information on complaint resolution processes must be made available and be appropriately displayed in all of the Member's places of business and/or online, together with reference to where information can be found about the Council and the Code.
- 9.5 If, after 14 days after making a complaint, the consumer has not received the Member's response or the decision/proposed resolution is disputed, application can be made to the Complaints Committee in order to resolve the dispute. A decision of the Complaints Committee will be made in accordance with the Complaint Handling Procedures.
- 9.6 A Member has 30 days to act upon a decision of the Complaints Committee in cases where the decision is not disputed by the consumer.

10. SANCTIONS

- 10.1 Where a breach of the Code has been determined, the Council may impose sanctions and/or seek that corrective action to be taken by the Member in breach. Such sanctions and actions are not limited to but may include:
- requiring that advertising be amended or withdrawn;
 - requiring that information and promotional material about weight management products and services to be amended, withdrawn or clarified;
 - warnings or censures.
- 10.2 If corrective action is not taken by the Member within the time allocated, the Council may suspend the membership for a set time period, or, the Member may be expelled.
- 10.3 In addition, where a breach of the Code has been determined as a result of a consumer complaint to the Council and the Complaints Committee so recommends, the Council may impose the following sanctions:
- more than three findings of breaches of the Code within a six month period against a member will result in a warning from the Council and an administrative fee of \$1000;
 - a further finding of a breach of the Code within three months of the initial warning, whether related to a new complaint or failure to remedy an existing one, will result in a second warning and an administrative fee of \$5,000;
 - a further finding of a breach of the Code within three months of the second warning may result in suspension or expulsion at the Council's discretion.
- 10.4 Where a Member is expelled the Council must make a report of the Member's conduct to the appropriate state or territory departments of consumer affairs/fair trading. Following suspension or expulsion, the Member must not claim membership status in advertising or at its places of business.

11. STAFF TRAINING AND QUALIFICATIONS

- 11.1 The Council has determined that there are a diverse range of training competencies needed within the various sectors of the Weight Management Industry. Annexure 3 contains generic requirements for staff providing weight management services recognising that these may necessarily be tailored for specific sectors.
- 11.2 Members and their franchisees and agents must ensure that the Training Competencies relating to their respective sectors exist within their respective businesses.

12. SALES PRACTICES

Each Member must ensure that all employees, franchisees and agents act in an ethical and professional manner and that they do not use unfair sales methods to sell products or services.

13. HEALTH

13.1 Health Screening

All Members must provide a Health Screening mechanism/procedure approved by the Council as suitable for the weight management products and services provided by members before consumers enter a contract for weight management products and services.

The following principles apply to the requirement for a health screen:

- where it is anticipated that the specific program may impact on the course of a chronic disease or medication use in an adverse manner; and
- where such concern exists positive responses mandate that the mechanism/procedure will be so designed such that (unless appropriate in-house experience exists) the consumer shall not be enrolled in the program without the written consent of the general practitioner or other health care professional. The list of conditions that apply are listed in Annexure 1.

13.2 General Health Principles

- information about short and long term effectiveness, risks and benefits should be provided;
- any product supplied or sold should not compromise health status;
- the industry should be responsive to research findings in the field of weight management;
- the accepted ethics of health care providers should apply and these embrace confidentiality, duty of care, autonomy and first doing no harm in the context of informed consent.

14. DATA COLLECTION & MANAGEMENT

14.1 Data collection and audit is a requirement of the Code and will be facilitated by publication on the Council website for those members who wish to publicise their data.

14.2 Members must have a policy for the collection of data and must collect data in accordance with that policy.

14.3. The Council will keep data on a confidential basis on:

- the number of complaints lodged by whom and about whom;
- the nature of the complaint and the outcome of the complaint;
- details of monitoring activities undertaken;
- the number of breaches of the Code, by whom and any sanctions imposed;
- performance data relating to weight management products and services offered by members.

15. GUARANTEES

Guarantees of weight management outcomes may not be given by Members.

16. FOOD AND NUTRITION

16.1 Members must comply with all aspects of food and nutrition labeling laws, including all requirements under the Food Standards Code or as otherwise required by FSANZ.

16.2 Weight management products and services must be nutritionally adequate.

16.3 Details concerning shelf life of products must be provided to consumers.

17. PRIVACY

Members must comply with all laws and regulations in relation to the protection of the consumer's privacy, personal information, sensitive information and health information.

18. DISCRIMINATION

Members must not breach any law or regulation pertaining to discrimination or equal opportunity.

19. PROMOTION

The Council will ensure that adequate publicity is given to the Code. The Council shall produce suitable promotional material for use by the Members.

20. ANNUAL REPORT

The Council shall produce an Annual Report for Members and interested parties summarising the complaint and monitoring functions and including such other information as is deemed useful or necessary, including a review of the effectiveness of the Code. The report may be published either in hard copy and/or on the Council's website.

21. REVIEW

The Council shall review the Code from time to time on an ongoing basis with a consolidated review every five years. There shall be an external appraisal of the Code and its administration in five years from the date of the adoption of the eighth edition of the Code.

22. [CLAUSE DELETED – 6 MARCH 2015]

23. PROVIDERS OF VERY LOW ENERGY DIET PRODUCTS

23.1 Members who are manufacturers of the Very low Energy Diet Products must provide evidence that the product is nutritionally adequate and clinically proven in the treatment of obesity.

23.2 The product must be accompanied by a treatment protocol that addresses the requirements of usage as well as guidelines for patient selection and care. The product must comply with Codex Stan 203-1995.

23.3 Providers of Very Low Energy Diet Products that do not provide written contracts shall be exempt from complying with clauses 5.4, 5.6, 6, 7, 8, 13 and Annexure 2 Guideline 7 of the Code.

24. PROVIDERS OF FORMULATED MEAL REPLACEMENTS

24.1 Members who are manufacturers of Formulated Meal Replacements must provide evidence that the product is nutritionally adequate and clinically proven in the treatment of obesity.

24.2 The product must be accompanied by a treatment protocol that addresses the requirements of usage as well as guidelines for patient selection and care. The product must comply with Standard 2.9.3.

24.3 Members who are providers of Formulated Meal Replacements that do not provide written contracts shall be exempt from complying with clauses 5.4, 5.6, 6, 7, 8 and 13 of the Code.

25. PROVIDERS OF REGISTERED MEDICINES (NON-PRESCRIPTION)

25.1 Members who are manufacturers of Registered Medicines (Non-Prescription) must provide evidence that the product is clinically proven in the treatment of obesity.

- 25.2 The Registered Medicines (Non-Prescription) provided to a consumer by a Member must be accompanied by a product information and treatment protocol that addresses the requirements of usage as well as guidelines for patient selection and care, as required by law.
- 25.3 Members must comply with the requirements of the Therapeutic Goods Administration and Medicines Australia Code of Conduct (as amended from time to time).
- 25.4 Members who are providers of Registered Medicines (Non-Prescription) that do not provide written contracts shall be exempt from complying with clauses 5.4, 5.6, 6, 7, 8 and 13 of the Code.

26. PROVIDERS OF REGISTERED MEDICINES (PRESCRIPTION)

- 26.1 Members who are manufacturers of Registered Medicines (Prescription) must provide evidence that the product is clinically proven in the treatment of obesity.
- 26.2 The Registered Medicines (Prescription) must be accompanied by a product information and treatment protocol that addresses the requirements of usage as well as guidelines for patient selection and care.
- 26.3 Members must comply with the requirements of the Therapeutic Goods Administration and the Medicines Australia Code of Conduct.
- 26.4 Members who are providers of Registered Medicines (Prescription) that do not provide written contracts shall be exempt from complying with clauses 5.4, 5.6, 6, 7, 8 and 13 of the Code.

27. INSURANCE

All members shall maintain insurances as determined by the Board of the Council as being appropriate for the nature and size of the business being conducted by the member.

ANNEXURE 1: HEALTH ASSESSMENT GUIDELINES

1. AIM

To encourage Members to take greater responsibility for the health and well being of the consumers of their weight management products and services. In addition, to encourage greater discretionary awareness by the consumers of the health implications of the weight management products and services.

2. OBJECTIVES

To protect the health of the consumer of the weight management products and services by:

- (a) minimising the chances of the weight reduction program or product exacerbating a pre-existing ailment or medical circumstance;
- (b) gaining professional medical input where applicable to enhance the chances of the weight reduction program or product benefiting a pre-existing ailment or medical circumstance.

To protect the Member offering the weight management products and services from legal action.

3. STRATEGY

To design a health screening mechanism/procedure to be used by members offering weight management products and services and to be completed and signed by consumers prior to undertaking a commitment to purchase weight management products and services.

The health screening mechanism/procedure is to include:

- (a) A range of conditions that would automatically exclude a prospective client from participation.
- (b) A range of conditions for which independent medical assessment and input is desirable. Such input may include recommendations and suggested modifications with respect to the program content and product usage.

4. QUESTIONS FOR THE HEALTH SCREENING MECHANISM/PROCEDURE

4.1 Provide advice to the consumer to check with their doctor if they have any of the following conditions unless specified elsewhere:

- Pregnancy or breastfeeding
- Coeliac disease

- Any significant gastro-intestinal disorder with malabsorption
- Medications: Mono-amine oxidase inhibitors, Lithium, Anticoagulants in particular, but also other medications may be affected by diets and/or may influence exercise capacity. Therefore it is usually advisable to check with the doctor
- Eating disorder or a history of an eating disorder
- Body mass index below 20
- People undergoing active treatment for Cancer
- People with diabetes requiring insulin
- Unresolved gall stones
- Liver or kidney disease for which active treatment is occurring
- Major surgery – within three months post operatively
- Any unstable cardio vascular disease
- Food allergies or sensitivities
- Concurrent medically prescribed diet for health problems
- Physical limitations that may reduce exercising capacity if it is relevant to an exercise program

In addition the consumer should be asked regarding any other medical condition.

4.2 Member's Responsibilities:

- to record the consumers name and full contact details;
- obtain consent form and/or letter from the health care professional to complete in case of 4.1 above.

4.3 Health Care Professional's Responsibilities:

In respect of the requirements of 4.1 the health care professional must provide:

- recommendations or modifications to suit the consumer's condition;
- recommend frequency of consultations with the physician who is co-managing the consumer.

ANNEXURE 2: SLIMMING ADVERTISING GUIDELINES

In these Slimming Advertising Guidelines (**Guidelines**), the term “advertisement” shall mean matter which is published for payment or other valuable consideration and which draws the attention of the public, or segment thereof, to a product, service, person, organisation or line of conduct in a manner calculated to promote or oppose directly or indirectly that product, service, person, organisation or line of conduct.

These Guidelines must be applied in conjunction with the relevant sections of the Therapeutic Goods Advertising Code, any Commonwealth, State and Territory food legislation, as it applies to advertising content.

The object of these Guidelines is to regulate advertising in which claims are made in respect of weight loss, slimming, weight control, or measurement loss, where weight loss is stated or implied.

To lose weight a person must consume fewer kilojoules/calories than the body expends. Eating plans provide information on a regimen of food items with quantities to be consumed within a fixed period of time, usually a 24 hour period. Menus and recipes may also be included in the eating plan. There is no single correct eating plan but rather a large number of acceptable options, all of which could achieve the desired goal of controlling or reducing weight and maintaining weight loss. Exercise programs can be included in an eating plan to further increase the deficit between energy input and energy output and so facilitate weight loss.

This preface forms part of these Guidelines

The Guidelines

1. The conformity of an advertisement with these Guidelines will be assessed in terms of its probable impact, taking its contents as a whole, upon a reasonable person within the class of those to whom the advertisement is directed and also taking into account its probable impact on persons within other classes to whom it is likely to be communicated.
2. All advertising which includes a weight loss claim must conform to the requirements of these Guidelines.
3. An advertisement for exercise, lifestyle programs or similar offers, other than as prohibited by clause 11 of these Guidelines, that contains a reduction, or loss claim for weight, fat, measurement or cellulite must acknowledge that, for such a reduction, or loss to occur, a deficit is required between energy input and energy output.
4. Aids to weight loss, being some foods, food substitutes, appetite suppressants and exercise can be advertised in terms which make clear that they can only be effective when taken in conjunction with or as part of a “kilojoule/calorie controlled

eating plan” or words to that effect.

5. Advertisers of weight loss programs should have evidence of nutritional sufficiency, safety and efficacy in accordance with claims made confirming:
 - a) the suggested eating plan will provide adequate amounts of protein, carbohydrates, fats, vitamins and minerals; and
 - b) the eating plan is safe and capable of achieving the results claimed.
6. Advertisements for foods offered as meal substitutes must conform with the provisions of State and Territory food regulation.
7. No advertisement must provide for an eating plan with an energy content of less than 3,500 kilojoules (800 calories) per day nor promote rapid weight reduction.
8. Advertisements must not make a promise of loss of a specified weight nor a promise of weight loss within a specified time.
9. Loss of measurements on different parts of the body must not be aggregated within one claim.
10. Testimonials supporting weight loss claims by individuals:
 - must be current, representative of average weight loss, and not be from an exceptional case;
 - shall state the period over which claimed weight loss achieved;
 - must be supported by a signed release by the individual making the testimonial, granting permission for publication, plus photocopies of progressive weight loss records; and
 - must not claim weight loss in excess of 1 kg per week in the absence of peer reviewed evidence published in a mainstream medical journal as authorised by the Council.
- 11 Weight loss claims must not be made in respect of products claiming to increase the metabolic rate of the body or in respect of the following:
 - a) massage or vibrator machines including electrical muscle and nerve simulators;
 - b) inflatable garments;
 - c) sauna and Turkish baths;
 - d) products based upon osmosis;

- e) bath essences, soaps;
- f) diuretics, laxatives;
- g) thermal pads;
- h) body wraps.

ANNEXURE 3 STAFF QUALIFICATIONS & COMPETENCIES

Obesity & weight management

Knowledge, skills and attitude

Staff are qualified, accredited or hold current registration or certification to deliver the service.

Staff are knowledgeable about the:

- causes of obesity;
- risks and consequences associated with obesity; and
- health benefits and risks associated with weight loss.
- the suitable client population.

Staff are capable of providing a range of supportive strategies and a client centered approach for facilitating weight management.

Staff maintain skills and knowledge when they:

- deliver services to the requisite industry standard; and
- keep abreast of evidence-based practices.

Practice

Staff delivering services to consumers have:

a holistic view of the causes of obesity, taking into account environmental factors, body image and potential pathways that contribute to obesity;

- an individualised approach to weight management by adopting best practice counselling and support strategies to motivate clients to reach their personal goals;
 - an understanding of contribution of nutrition, physical activity, sleep stress management and environmental and psychosocial factors to better health beyond the effects on prevention and management of obesity;
- understand the process of ensuring clients are appropriately assessed for participation in the program and where appropriate there is liaison with health care practitioners;
- Appreciate the importance of liaising with a patient's usual medical practitioner.

Consumer Rights

Consumer rights and complaints resolution

Staff understand the rationale for consumer rights.

Staff are aware of the complaints process within their organisation, and able to respond appropriately to client complaints.

ANNEXURE 4: COMPLAINTS RESOLUTION PROCEDURES

Introduction

The Weight Management Council Australia Ltd (**Council**) has established a complaints resolution procedure to provide a cost free process for resolving complaints between Council members and their clients.

The complaints procedure does not replace or remove consumers' rights to seek compensation through the small claims courts or tribunals but is an additional avenue for the resolution of complaints.

What should I do if I am unhappy with the service I have received?

Step 1: Contact the complaints officer/customer care centre of the member company
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If you are unhappy with the service provided by a member of the Council, the first thing you should do is contact the complaints officer/customer care centre of the member company. You will have been given these details when signing a contract, joining a weight management program or purchasing weight management products and services.

The complaints officer/customer care centre will keep you informed about the progress of your complaint and will, within 14 days, provide you with a written response to your complaint.

If, after 14 days, you are not happy with the response you have received or you have had no response from the member, you can make a complaint to the Complaints Committee.

Complaints Committee

Step 2: Write to the Complaints Committee
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Who makes up the Complaints Committee?

The Complaints Committee comprises:

- Independent Chairperson of the Board of the Council;
- a consumer representative being the Board representative of the Consumers' Federation of Australia Inc;

- the Board representative of the Australian Nutrition Foundation Inc or another representative of the Australian Nutrition Foundation Inc appointed by the Board of the Council; and
- two industry representative appointed by the Board of the Council with the proviso that such representatives are not allowed to participate in any discussions or meetings that relate to a complaint against the member companies they represent.

Tenure for Complaints Committee members is two years however they shall be eligible for re-appointment.

How will the Committee handle the complaint?

On receipt of your written complaint, the Complaints Committee Secretariat will seek a written response from the member. The member is then given 14 days to respond. Once written evidence from both parties is to hand together with any required documents, the Committee will convene promptly to make a determination. Usually, neither you nor the member will be required to attend the hearing in person unless there are, in the opinion of the Committee, exceptional circumstances.

Hearings will be held as required and parties will be notified in writing within seven days of the determination.

The Committee is not bound by the rules of evidence but can inform itself in any way it sees fit and can, if appropriate, seek expert medical, legal or other opinion.

Determinations will be made on the basis of the Code and what is considered fair in all the circumstances of a case. Determinations will be made on a majority decision of two to one and will be binding on the member.

You then have 14 days in which to accept the determination as full and final settlement of the complaint or alternatively to reject the determination and seek resolution by other means such as the small claims courts or tribunals.

If you accept the Complaints Committee determination, then the member has 30 days to take remedial action.

What action can the Complaints Committee take?

The Complaints Committee can make whatever determinations it sees fit to resolve a complaint including but not limited to:

- refund of money paid toward a program including food and meal replacement products excluding fresh or frozen food and exercise programs;
- acknowledgment of the consumer's right to cancel a contract within in the cooling off period and refund of money paid in accordance with the Code.

- Where a complaint involves a breach of the Code, the Complaints Committee will report to the Board of the Council with a recommendation that a particular sanction be imposed upon the member. Sanctions include warnings, reprimands, directions to undertake corrective action, suspension, payment of an administrative fee or suspension or expulsion from membership of the Council.

Reporting

The Complaints Committee will report annually to the Council on the complaints received and how they were resolved. In addition, it will report on the number and nature of any sanctions recommended.

What Information Should I Provide?

Step 3: Information/documents required by the Complaints Committee

When writing to the Complaints Committee, be sure to include:

- your name, address and daytime telephone number and email address (where available);
- name of member company/individual;
- copy of contract or description of the weight management product or service purchased and its price;
- copies of any correspondence with member;
- nature of complaint;
- a brief description of the member's response to the complaint.

Complaints must be lodged with the Complaints Committee within 12 months of the date of the transaction giving rise to the complaint.

Step 4: Where to send your complaint

Send your written complaint to:

The Secretary
Weight Management Council Australia Ltd
GPO Box 4401
MELBOURNE VIC 3001
E-mail: wmca@assocmanoz.com

Initial telephone enquiries can be made to the Secretary on 03 8637 4722