



WA's fitness code

There are certain legal requirements for the fitness industry in Western Australia. If you are a fitness supplier you need to follow the code of practice.

Code of practice

The *Fair Trading (Fitness Industry Code of Practice) Regulations 2020 (WA)* (the code) set out specific standards that:

- ensure there are appropriate standards of service in the fitness industry;
- encourage and maintain consumer confidence in the fitness industry; and
- support and promote the fitness industry.

Who does the fitness code apply to?

The code applies to all fitness suppliers in Western Australia. A fitness supplier is a business or individual that provides a fitness service.

For example a fitness supplier may be:

- the owner of a gym;
- a franchisee of a fitness centre;
- a person operating a business as a personal trainer; or
- a fitness instructor.

What is a fitness service?

A fitness service can include:

- an exercise screening;
- an individual exercise program;
- group exercise; or
- the provision of exercise equipment for use by clients.

Examples of a fitness service include a 24/7 gym, an outdoor boot camp, a personal trainer or a yoga class.

Changes to the code

The code is mandatory from 1 July 2021.

Key changes include:

- consistent application of the code across the fitness industry;
- greater transparency in membership agreements;
- improving how fees must be disclosed;
- clarity on cancellations;
- extending the cooling-off period to 7 days; and
- supporting the use of digital contracts and notices.

Consistent application of the code across the fitness industry

There has been a huge growth in the variety of fitness services being offered outside of gyms. If you offer clients a **membership agreement** for a fitness service then it must meet the requirements for membership agreements outlined in [the code](#).

This now includes other fitness service providers apart from traditional gyms, such as personal trainers and outdoor boot camps.



Disclosure of fees

The code has specific disclosure requirements to help consumers compare and understand options. Transparent pricing makes comparisons easier. A fitness service must publicly provide the following information:

- ✓ a clear description of the service;
- ✓ the monthly or fortnightly charges;
- ✓ detail of any other fees including fees for early termination;
- ✓ the minimum term for any contract (if any);
- ✓ any exclusions or important conditions, limitations or restrictions; and
- ✓ the total minimum cost associated with membership.

These improvements allow consumers to compare fitness services online. The code makes it clear that a consumer should not have to meet with someone to get information about a fitness membership.

Membership agreements

Fitness services may use digital membership agreements. Contents and layout of contracts are set out in the code. Membership agreements must now start with an agreement summary. This summary will support digital contracts and help consumers understand their responsibilities and the costs involved.

An agreement summary must include:

- a description of the services offered;
- the term of the agreement;
- if the agreement is fixed term when it ends;
- if it is ongoing when any initial term ends;
- a statement indicating there is 7 day cooling-off period;
- details of all fees and charges including total amount of fees and charges payable; and
- any exclusions, limitations or restrictions in relation to the fitness service.

If the client is under 18 years of age the membership must be signed and dated by a parent or guardian. The code continues to limit the length of pre-paid memberships to 12 months.

Membership cancellations

Details on how to cancel a membership, and how to do it electronically, must be in all membership agreements.

Members can cancel a fitness membership agreement by giving written notice.

- ✓ Cancellations must always be in writing but do not have to be on a specific form.
- ✓ Membership can be cancelled by email.
- ✓ A fitness service provider must cancel any linked direct debit agreements when a membership is cancelled.

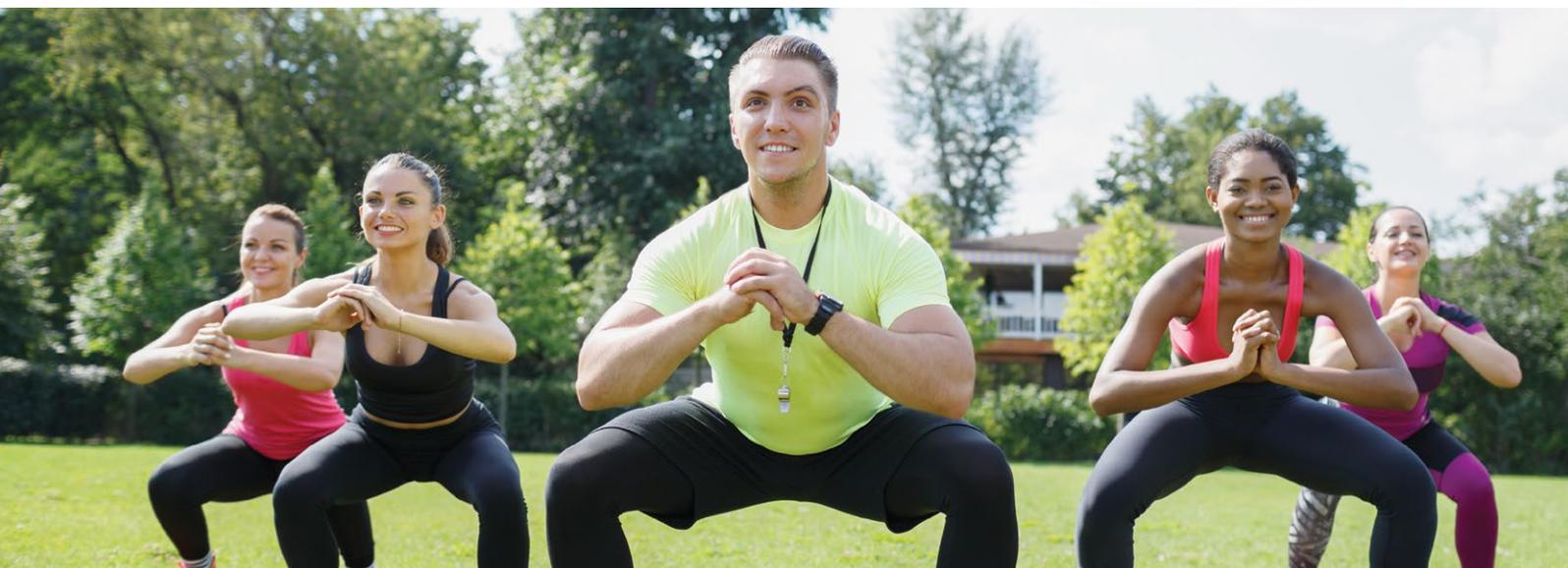
During the cooling-off period

Members can cancel in the 7 day cooling-off period by giving notice in writing.

The fitness service can charge the member:

- an administration fee that reflects their administration costs, if specified in the agreement; and
- a fee for any fitness services you have already used and not paid for.

The cancellation will take effect immediately.



Due to permanent illness or incapacity

Members can cancel if they have a permanent illness or incapacity that stops them using the fitness service by:

- giving notice in writing; and
- providing a medical certificate that confirms the permanent illness or incapacity.

The cancellation will take effect immediately.

When a membership is cancelled due to permanent illness or incapacity the fitness service can charge a fee for any fitness services you have already used but not paid for.

For other reasons

Members can cancel for any other reason by giving written notice to the fitness service.

The membership will finish after:

- the end of any notice period specified in the agreement; and
- no more than 30 days from the date they provided written notice.

If a membership is cancelled for other reasons the fitness service can continue to charge for the notice period specified in the agreement.

If a membership is cancelled before the end of an initial term, the fitness service can also charge a termination fee, if it is in the membership agreement.

A fitness service must confirm they have received a request to cancel within 7 days of receiving it.

The confirmation must be in writing and include:

- amount of the last payment due; and
- the date the termination takes effect.

It is not OK to:

- ✗ require someone to cancel a membership in person;
- ✗ need written cancellation on a specific form;
- ✗ continue accepting direct debit payments after the membership is cancelled;
- ✗ expect the consumer to separately cancel a third party direct debit contract set up by the fitness provider;
- ✗ require an excessive notice period; and
- ✗ charge fees not related to financial loss incurred due to the cancellation.

These practices are all **prohibited** under the code.

Suppliers must now notify members before the automatic renewal of their memberships. This will give members a chance to cancel at the end of a minimum term without penalty.



Cooling-off period

The fitness code now has a 7 day minimum cooling-off period for membership agreements. Members can cancel in the 7 day cooling-off period by giving notice in writing.

The cancellation will take effect immediately.



General rules of conduct

The code promotes a high standard of conduct for fitness suppliers. The code promotes client confidentiality, being truthful and an ethical sales process.



High pressure sales tactics explained

The code prohibits high pressure sales techniques and harassment. If you work in the fitness industry you need to understand what high pressure sales techniques and harassment can look like.

Examples include:	Meaning:
'This is a one-time offer only', 'offer available for today only'	These statements are only OK when an offer is widely and publicly advertised as a limited-time offer.
'Think about what this means for you, your health/family/body type'	These are examples of manipulative and emotive sales techniques to persuade consumers to sign up now. They are particularly hard for vulnerable consumers.
The 'freebie'	Offering trial sessions is common practice and is fine. Some fitness centres, however, will offer a free session or discounted month and then offer the 'one time only' membership offer after the first session.
The 'chatty person'	The sales person bombards a consumer, their new best friend, with non-stop conversation or frequent phone calls until they agree to sign up.
When they won't take 'no' for an answer	It is not OK to sign up a member when they have told you they can't afford the payments.

Complaint process

A supplier must provide information to a client on how to lodge a complaint.

If a complaint is lodged by a client, the supplier must make every effort to resolve the complaint quickly and fairly.

A supplier must also:

- record the complaint on file; and
- notify the complainant that the complaint has been received.

Disclaimer – The information contained in this fact sheet is provided as general information and a guide only. It should not be relied upon as legal advice or as an accurate statement of the relevant legislation provisions. If you are uncertain as to your legal obligations, you should obtain independent legal advice.

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