

## Buying Goods – your rights

When you buy goods from a shop, market stall, garage, etc, you enter into a contract, which is controlled by many laws including the Sale of Goods Act 1979 (<http://www.legislation.gov.uk/ukpga/1979/54/contents>) (as amended by the Sale and Supply of Goods Act 1994 (<http://www.legislation.gov.uk/ukpga/1994/35/contents>) and the Sale and Supply of Goods to Consumers Regulations 2002 (<http://www.legislation.gov.uk/uksi/2002/3045/contents/made>)). The law gives you certain consumer (sometimes referred to as statutory) rights under this contract.

The Sale of Goods Act 1979 (<http://www.legislation.gov.uk/ukpga/1979/54/contents>) (as amended) says that goods should be:

**Of a satisfactory quality** - The goods should be free from minor defects, safe and durable for a reasonable length of time. When assessing satisfactory quality you should take into account price, age and condition at the time of sale.

**Fit for the purpose made known to the seller** - Goods of this type are generally sold and must also be fit for any specific or particular purpose the buyer makes known to the seller at the time of the agreement.

**As described** - Goods should correspond with any description applied to them. In some circumstances the retailer may be liable for any statement made by the manufacturer of the goods.

### When are you not entitled to anything?

- if you were told of any faults before you bought the goods
- if the fault was obvious and it would have been reasonable to have noticed it on examination before buying
- if you caused any damage yourself
- if you made a mistake, for example, you don't like the colour, it is the wrong size etc.
- if you have changed your mind about the goods, or seen them cheaper elsewhere

However, if you purchased the goods through mail order or over the Internet then you will probably be entitled to a cooling off period – see our leaflet 'Shopping at home - your guide to the Distance Selling Regulations' for more information

([http://www.derbyshire.gov.uk/images/ca46\\_tcm9-8184.pdf](http://www.derbyshire.gov.uk/images/ca46_tcm9-8184.pdf)).

The situation may be different and you may have additional rights where contracts involve:

- credit (see our leaflet 'Your rights when buying on credit'([http://www.derbyshire.gov.uk/images/ca09\\_tcm9-8194.pdf](http://www.derbyshire.gov.uk/images/ca09_tcm9-8194.pdf)))
- distance selling, i.e. not involving face to face contact, such as Internet, catalogue or telephone sales etc. (see our leaflet 'Shopping at home - your guide to the Distance Selling Regulations' ([http://www.derbyshire.gov.uk/images/ca46\\_tcm9-8184.pdf](http://www.derbyshire.gov.uk/images/ca46_tcm9-8184.pdf)))
- goods purchased in your home, another person's home, your place of business or during an excursion organised by the trader at a place away from their usual place of business

### **What are you entitled to ask for?**

If the goods are faulty at the time of sale, you are legally entitled to request one of the following remedies:

**A full refund** - This remedy is available when the goods have not been 'accepted'. Under the Sale of Goods Act 1979 (<http://www.legislation.gov.uk/ukpga/1979/54/contents>), acceptance can take place in three ways:

1. By telling the retailer that you have accepted them.
2. By acting in a way with the goods which is inconsistent with the seller's ownership. For example, if you have altered the goods in any way or customised them then you would be deemed to have accepted them.
3. By keeping them for longer than a reasonable time without telling the seller that you have rejected them. There is no time specified in the Act and it may vary according to the type of goods. Ultimately, it may be for a judge in a county court to decide whether an unreasonable time has passed and whether goods have been accepted. For this reason you must contact the supplier, preferably in writing, as soon as the fault appears. To delay may mean you lose the right to a refund.

If acceptance has taken place, then only the following remedies are available:

**Compensation (damages)** - The amount of compensation may be based on the cost of repair, or if that is not possible, compensation may be based on the purchase price with an allowance for usage.

**Repair or replacement** - The trader can refuse to agree to either of these remedies if it is disproportionate (i.e. it costs too much) in comparison to the other remedies. For example, if you ask a trader to replace a washing machine, when a low cost repair may remedy the situation, the trader may be entitled to turn down your request and offer the repair instead.

However, the repair or replacement must be carried out within a reasonable time and without causing significant inconvenience to the consumer. If this does not happen or the repair or replacement is not possible, then the consumer can cancel the contract (claim a refund) or request a reduction in purchase price.

Please note: The remedies of repair/replacement and the subsequent rescission or reduction in purchase price are not applicable to hire purchase contracts and other laws apply. Please contact Citizens Advice for further advice ([www.adviceguide.org.uk](http://www.adviceguide.org.uk)).

**Rescission or reduction in price** - These financial remedies can only be achieved by a failure of the repair/replacement option once acceptance has taken place. If the trader agrees to rescission, the amount paid may be reduced to take into account usage of the item. Once you have chosen a remedy and the trader has agreed, you must give the trader a reasonable time to perform the chosen remedy before switching to another one. Ultimately, if a remedy cannot be agreed upon, then the courts have the power to choose any of the remedies.

### **Proving the fault:**

If you have not accepted the goods and are rejecting and claiming a full refund or damages, it is **YOU**, the consumer, who needs to prove that there has been a breach of contract in that the goods are not of satisfactory quality, fit for purpose or as described at the time of purchase.

If you are claiming the remedies of repair or replacement within the first six months after purchase, it is for **THE TRADER** to prove that the goods conformed to the contract at the time of sale.

If you are claiming repair or replacement more than six months after purchase, the burden of proof is back to **YOU**, the consumer.

If it becomes necessary to obtain an expert opinion to support your claim, there are procedures to follow before you employ anyone in this capacity. County court rules say that where an expert is necessary, it should be a single, jointly approved expert, and the expert's duty is to the court. You need to agree your choice of expert with the other party, and allow them to put their comments to the expert. Failure to follow this procedure may mean that a judge will not allow your expert to be heard should the matter eventually reach county court. For further clarification, please seek advice from Citizens Advice ([www.adviceguide.org.uk](http://www.adviceguide.org.uk)).

### **Who can you claim against for faulty goods?**

Your claim could be against:

- the retailer under the Sale of Goods Act 1979 (<http://www.legislation.gov.uk/ukpga/1979/54/contents>)
- the manufacturer (under the terms of a guarantee if you have one)
- a credit company if financed by credit (see our leaflet 'Your rights when buying on credit' ([http://www.derbyshire.gov.uk/images/ca09\\_tcm9-8194.pdf](http://www.derbyshire.gov.uk/images/ca09_tcm9-8194.pdf)))
- the credit card company (see our leaflet 'Your rights when buying on credit' ([http://www.derbyshire.gov.uk/images/ca09\\_tcm9-8194.pdf](http://www.derbyshire.gov.uk/images/ca09_tcm9-8194.pdf)))

### **Guarantees:**

If the manufacturer of the goods provides a free guarantee with the goods, this creates a contractual obligation by the guarantor. If it fails to honour the guarantee, you could sue the manufacturer for the promises it makes. A guarantee is in addition to your rights under the Sale of Goods Act 1979 (<http://www.legislation.gov.uk/ukpga/1979/54/contents>). In some circumstances, you may have a claim under the guarantee, but find that a claim under the Sale of Goods Act 1979 (<http://www.legislation.gov.uk/ukpga/1979/54/contents>) would be difficult to prove, or vice versa. You may also in some circumstances have a claim against both, and therefore have a choice of who to claim against. If you are unsure seek advice from Citizens Advice ([www.adviceguide.org.uk](http://www.adviceguide.org.uk)).

A trader or manufacturer is under no obligation to provide a guarantee, and if they do, they can specify any time span, for example six months,

twelve months or three years. They can also specify what is to be covered by the guarantee, and exclude certain parts, or wear and tear. They cannot, however, take away any rights you would have under the Sale of Goods Act 1979 (<http://www.legislation.gov.uk/ukpga/1979/54/contents>).

### **Returns policies:**

Some retailers make promises out of goodwill that they will issue refunds for unused goods within a time period, for whatever reason. This creates additional useful rights for consumers.

### **Offences:**

If the seller is in business (rather than a private seller), he may have committed a criminal offence if he:

- sells goods which are unsafe
- advertises a misleading price
- displays a sign which states 'no refunds'
- performs an 'unfair commercial practice' - this can include many activities such as placing false claims on goods or services

If you feel that any of the above could apply, you should report the matter to Citizens Advice ([www.adviceguide.org.uk](http://www.adviceguide.org.uk)) before you return to the trader.

If you have been injured as a result of any goods, you should seek immediate advice from a solicitor and report the matter to Citizens Advice ([www.adviceguide.org.uk](http://www.adviceguide.org.uk)).

### **Some problem areas when buying goods:**

**Private sales** - When you buy goods from a private individual, you don't have the same rights as when buying from a trader. The legal principle of caveat emptor, or 'buyer beware', operates. You have no right to expect that goods be of satisfactory quality or fit for their purpose, but there is a requirement that they should be 'as described'. You should check goods thoroughly before you buy them.

**Second-hand goods** - The Sale of Goods Act 1979 (<http://www.legislation.gov.uk/ukpga/1979/54/contents>) applies to second-hand goods. When considering whether goods are of satisfactory quality you should take into account the lower expectations of second-hand goods. For example, it wouldn't be reasonable to expect

a ten year old, high mileage car to be completely free from fault, nor to perform in the same way as a brand new vehicle, nor to last as long. Second-hand goods will have part-worn parts which will not be as durable as a new model.

**Sale goods** - Again, you have full rights under the Sale of Goods Act 1979 (<http://www.legislation.gov.uk/ukpga/1979/54/contents>). However, if the goods were reduced in price because of a fault that was either brought to your attention at the time, or if you examined the goods and the defect would have been obvious to you, you would not be able to claim a refund later for that particular fault.

**Auctions** - When anyone buys at auction they are seen to be dealing as a trader rather than as a private individual. In a trade to trade contract it is possible for the parties to limit their liabilities to each other, and for this reason it has been possible for the auction house to put up notices which exclude the purchase from rights given by the Sale of Goods Act 1979 (<http://www.legislation.gov.uk/ukpga/1979/54/contents>). This is subject to a reasonableness test and is covered by the Unfair Contract Terms Act 1977 (<http://www.legislation.gov.uk/ukpga/1977/50/contents>).

However:

- new goods purchased at auction by a consumer will be covered by the [Sale of Goods Act 1979](#) with the corresponding remedies
- second-hand goods will also be covered when sold at auction but only where the consumer cannot attend in person

Some car auctions give the purchaser a limited time to try out the vehicle and reject if not suitable. This may only be a matter of a few hours, so it is worth looking closely at the terms of business.

### **How to resolve your complaint:**

If you are experiencing problems with the goods you have purchased, the following steps could help to solve your problem:

If you wish to reject the goods, stop using them.

Find your proof of purchase. A receipt, credit card voucher or cheque stub should be adequate.

If the goods have caused injury or if you feel a criminal offence has been committed, report this to Citizens Advice

([www.adviceguide.org.uk](http://www.adviceguide.org.uk)) before going to see the trader. In the case of personal injury you may also need to seek further legal advice from a solicitor if you are considering taking legal action.

Otherwise take the goods back to the trader with your proof of purchase and ask to speak to the manager or owner. Explain your problem calmly but firmly and ask for a full refund, compensation, repair or replacement. The above information will explain which is most appropriate. Record the details of any conversation and the manager or owner's name. Make sure that you are clear in explaining what you want from the trader and give them a fixed, reasonable time in which to do it .e.g. 14 days.

If the problem is not resolved at this stage, write to the trader and/or the finance company/credit card company (if applicable - see our leaflet entitled 'Your rights when buying on credit' ([http://www.derbyshire.gov.uk/images/ca09\\_tcm9-8194.pdf](http://www.derbyshire.gov.uk/images/ca09_tcm9-8194.pdf))). Keep a copy of your letter and obtain proof of posting. Set a deadline for them to resolve your complaint. You can tell them that you will consider legal action. You should send the letter by recorded delivery to all known addresses – remember to keep a copy of the letter for your records. See our leaflet 'Writing an effective letter of complaint' for further advice and template letters ([http://www.derbyshire.gov.uk/images/ca20\\_tcm9-8192.pdf](http://www.derbyshire.gov.uk/images/ca20_tcm9-8192.pdf)).

You could find out if the trader is a member of a trade association that offers a conciliation or arbitration service. Conciliation is usually free and would not normally prevent you from taking the matter through the court if it was not resolved to your satisfaction. Arbitration is usually chargeable and legally binding. If you would like to consider these options, contact the trade association in question before you commit yourself (see our leaflet 'Trade associations and regulatory bodies – listing' ([http://www.derbyshire.gov.uk/images/ca28\\_tcm9-8188.pdf](http://www.derbyshire.gov.uk/images/ca28_tcm9-8188.pdf))).

If the condition of the goods is disputed, it may be necessary to obtain an expert opinion. You should consult with the trader on the use of an independent expert.

If the seller makes an alternative offer, you can either accept or continue to negotiate. Be realistic in what you will accept. You may not get a better offer by going to court.

Court should be a last resort. Try to find out whether the trader is worth suing - it is not worth suing a person who has no money. There may

also be additional costs involved such as bailiffs even if you do get a result in your favour.

### ***Where can I get further help?***

This leaflet is not an authoritative interpretation of the law and is intended only for guidance. Any legislation referred to, while still current, may have been amended from the form in which it was originally enacted. For further information, please contact Citizens Advice.

The Citizens Advice consumer service provides free, confidential and impartial advice on consumer issues. Visit [www.adviceguide.org.uk](http://www.adviceguide.org.uk) or call the Citizens Advice consumer helpline on 08454 04 05 06.

If you are a **business**, contact us by any of the following methods:

Derbyshire Trading Standards Service  
Chatsworth Hall  
Chesterfield Road  
Matlock  
Derbyshire  
DE4 3FW

Telephone: Call Derbyshire 08 456 058 058

Fax: 01629 536197

Website: [www.derbyshire.gov.uk/tradingstandards](http://www.derbyshire.gov.uk/tradingstandards)

We want everyone to be able to understand us. On request, we will arrange:

- Language interpreters, including for sign language
- Translation of written materials into other languages
- Materials in large print, on tape or in Braille.

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or telephone us on 01629 536166.

