



This leaflet has been produced for guidance only if you wish further advice contact **Trading Standards** at:

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TRADING STANDARDS - CONSUMER ADVICE

Detailed below are some of the most common questions put to Trading Standards by consumers:

"I have just purchased a product that is faulty. Is it the manufacturers responsibility to rectify any faults?"

No - The manufacturer does not have any liability to the consumer. The seller of the product always has liability for the goods that they sell. However, the manufacturer may be willing to carry out repairs that are covered by their guarantee.

"I have just purchased some goods that are defective. The trader will only offer me a credit note or an exchange. Is he right?"

No - If the goods are defective you may be entitled to expect 'reasonable' financial compensation. If you have just purchased the goods, you may be able to 'reject' them and have your money back. If you have had the goods for some time, a repair may be reasonable.

"I have just purchased something that I do not want any more. Does the shop have to give me a refund?"

No - You are only entitled to a refund if the goods are defective. However, the trader may be willing to give you a credit note.

"I have accepted a credit note from a trader, but they do not have anything that I like. Can I now demand that the trader gives me cash?"

No - You are not entitled to a refund once you have accepted a credit note. Also beware that the credit note will become worthless once its use by date has expired.

"I took some faulty goods back to the shop, but the trader pointed to a notice which stated 'No Refunds'. Is this correct?"

No - Traders cannot restrict their liability for faulty goods. In fact these notices are illegal and the trader could be prosecuted by Trading Standards.

"I purchased goods over a year ago and the guarantee has now expired. The trader has advised me that he does not have any responsibility for the goods. Is he right?"

No - Guarantees are extra to your legal rights. If the goods are faulty due to an inherent fault, it is the traders responsibility to rectify the situation.

"I went to a 'sale' and purchased some goods that are now faulty. The trader will not accept liability as they were sale items. Is he right?"

No - You have the same rights when buying 'sale' goods as when you purchase a brand new item. However, if the price has been reduced because the item was damaged, you cannot complain about the damage. If the item is second hand, you will have to accept that it may not be as reliable as a new model.

"I have purchased some faulty goods, but I have lost the receipt. The trader says that without a receipt, I do not have any rights. Is he right?"

No! You do not have to produce a receipt in order to pursue a claim for faulty goods. However, under the law, you are required to prove that you purchased the product. Therefore, if you paid by cash, a receipt may be the only proof that you have.

"I purchased some clothes that I have now found do not fit me. The trader will not take them back and give me a refund. Is he correct?"

Yes - You only have a claim against the seller if the goods are faulty or misdescribed.

"I have purchased a camera that is faulty. The trader refuses to accept that the goods are faulty and wants to send the camera back to the manufacturer. Can he do this?"

Yes - Although the trader is liable, if he disputes the nature of the fault, it would be reasonable to seek a second opinion from the manufacturer.

"I purchased an ex display washing machine that had a damaged casing. The trader will not take the machine back. Is he right?"

Yes - You cannot complain about faults that you were aware of when you purchased the goods. However, apart from the known faults, the machine is still required to be of 'satisfactory quality' and work properly.

"I want to purchase a three piece suite that is on display in a shop. The shop is refusing to sell it to me. Does a shop have the right to refuse to sell goods?"

Yes - Goods on display in a shop are there for you to make an offer for, [the legal term is called 'invitation to treat']. The shop is not obliged to accept your offer. For an agreement to be legally binding there has to be an offer and an acceptance of that offer.

"I saw a price on an item in a shop, however, the assistant refused to sell it at the price saying that there was an error. Can the shop refuse to sell at the price displayed?"

Yes - As with the goods on display, the shop is not obliged to accept your offer. However, it might be a criminal offence under the Consumer Protection Act 1987 to mislead consumers about the price of goods on display. You should report any occurrence like this to Trading Standards.

"I was given a present which has developed a fault. The trader will not accept liability even though the goods were purchased from him. Can he refuse to deal with me?"

Yes - Only the person who purchased the goods has a right to seek redress for faulty goods. However, a lot of companies will be willing to try and resolve complaints on a goodwill basis.

"I ordered goods for delivery by a specific date. The date has now passed without delivery of the goods and I do not require the goods any more. The trader will not accept cancellation of the order. Am I right in thinking that I am entitled to cancel?"

Yes - Provided that the delivery date was specified and made a term of the contract, you are entitled to cancel the contract, without any financial penalty, once the date has passed. If a date has not been specified, delivery should take place within a 'reasonable' time.

WRITING A LETTER OF COMPLAINT

When you have problems with faulty goods or services, it is often a good idea to put the details of your complaint in writing, perhaps because the local shop is not being very helpful and you want the head office to deal with the matter, or because you have a mail order or credit transaction.

When writing a letter of complaint, use this checklist to ensure it is as effective as possible:

- ◆ make sure you write to the correct company address;
- ◆ include copies (not originals) of any supporting documentation, such as receipts or other proofs of purchase, order forms, invoices etc;
- ◆ quote any relevant account/customer/invoice numbers;
- ◆ be specific and stick to the point - quote dates of events, and all the relevant circumstances surrounding your complaint;
- ◆ be clear about what you want the trader to do to solve your complaint;
- ◆ set a deadline by which time you want the matter to be sorted out and stick to this deadline;
- ◆ get evidence to support your claim, i.e. independent technical reports, and enclose a copy with your letter;
- ◆ keep a copy of your letters, and send them by recorded delivery;
- ◆ act quickly - delaying can sometimes affect your rights;
- ◆ be persistent - write a reminder letter if you don't get a reply to your first one.

GETTING EVIDENCE TO PROVE YOUR CLAIM

Usually, there are no problems with rejecting faulty goods or complaining about shoddy workmanship - the trader accepts the situation and puts it right. Sometimes, however, you can end up in a dispute with a trader as to whether the goods are in fact faulty, or what the cause of the fault is. Legally, it is always the responsibility of the person making the complaint to prove that goods or services are defective, perhaps because of a manufacturing fault or poor quality workmanship, and not because of accidental damage, misuse and abuse, or just normal wear and tear.

Expert Opinions

You may need to get the opinion of an independent expert, preferably in writing, so that you can prove your case to the trader, and to a court if that becomes necessary. You may have to pay for the report, but if it backs up your case, then you could expect the trader to refund your expenses, as well as settling your dispute.

Always tell the trader of your intentions before you go to the expense of getting an independent opinion - he may decide to settle the dispute, or may make an offer towards the cost of the report. Let the trader see a copy of the report, and ask them to act on the recommendations, or compensate you for the cost of any repairs, as well as the cost of the report.

If you find it difficult to get an independent opinion, this won't stop you from pursuing your case, in court if necessary - but a report can make it easier to prove your case on the day.

Finding An Expert

Sometimes, it can be difficult to find an independent expert. Find out if there is a trade association for the trader you are in dispute with, for example, plumbers, builders, carpet retailers etc. They may be able to recommend a local expert or might be prepared to step in if the trader is a member. Alternatively, contact another local dealer, contractor, or surveyor, for example, by looking in the local 'phone directories.

Getting Evidence to Prove Your Claim cont....

More Tips

- if appropriate, take photographs of bad workmanship, poor quality hotel accommodation etc.
- if you have any witnesses to the problem or incident, ask them to write a letter as further evidence
- if you need to get remedial work done quickly and the trader refuses to do this for you, make sure you get your other repairer to give you a report on the work done, as well as an itemised bill.
- keep any parts that are removed or replaced - you may need them for evidence later.

The Report

- Ask for the report to state clearly:
- what the problem is
- what the cause of the problem is (i.e. bad workmanship, inherent defect etc)
- what needs to be done to put things right
- how much this will cost

Checklist

- Stop using the item.
- Contact the trader as soon as possible, by 'phone, in person or in writing - always act quickly:-

Date of contact
Name of person spoken to
Position in company

(always make sure you speak to someone in a position of authority in the company, i.e. the branch manager of the shop, or the owner of the business - keep calm, but be firm!)

- If Possible, Take The Goods Back To The Shop:-

Have you got the receipt or invoice or any other relevant paperwork? Don't let the trader have the originals as you may need them for evidence later.

- Make a note of what was agreed:-

What did the trader promise to do?
Was a time limit set?
Will the trader confirm what was agreed in writing?

- If nothing is sorted out, get the head office address, and put your complaint in writing:-

What date did you write the letter
Have you enclosed copies of relevant receipts, invoices, other correspondence?
Have you kept a copy of your letter?
Have you sent it by recorded delivery? - keep your proof of postage
(Try to stick to the point in you letter and keep to the relevant facts -make it clear what you want the trader to do and set a time limit)

- If you don't get a reply to this letter, send another one - be persistent!
(again follow the notes above, keeping copies, etc.)

- If the trader replies to a letter on the 'phone or in person, make a note of :-

The date and time.....
Who you spoke to.....
What action was agreed.....

If all else fails, you may have to consider taking legal action
- see the booklet 'Small Claims in The Sheriff Court'