

How to Complain:

The Essential Consumer Guide to
Getting Refunds, Redress and Results!

Update companion to the 3rd edition



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The fourth edition of How to Complain: The Essential Consumer Guide to Getting Refunds, Redress & Results! includes some changes and additions to the first second and third editions. Those with a first or second edition need both the previous and this second companion. Those with a third edition need just this companion.

This companion will not affect any of the templates.

Page numbers relate to the third edition.

On the following pages all the changes and additions are listed to bring your book up to date without having to purchase a new copy! However if you have a first or second edition by the time a fifth comes out you really should think about buying a new version or you will be in a right pickle!

Chapter: Ensuring your Complaints are Effective

Common Fob Offs (Amendment pg 19)

“It is over 6 months so we do not need to give a refund” As a general rule this is correct but if you can still prove that the fault was there at point of purchase and/or the item has not lasted ‘a reasonable length of time’ then you can and should get a full refund or at the very least a free repair.

Comparison websites (Replace paragraph pg 22)

The Ofgem voluntary code of practice for price comparison websites now prevents them from displaying products on which they earn commission more prominently than those on which they don’t.

Chapter: Consumer Rights

Digital content non physical form (Addition pg 29)

OK, now this is where it gets complicated and the potential for challenges in court is high!

- Non physical form such as downloads are not covered by the 30 day rule. You can see why, you could download something and use it and then try and get your money back.
- The right to reject applies only to goods and digital content sold as part of the goods (often referred to as being on a tangible medium, such as a disc, but this also includes digital content that is within the goods, e.g. the program on a washing machine). Digital content that is downloaded is not subject to the right to reject as the consumer is not in a position to return the digital content.
- If the download has corrupted other apps on a device this may not be apparent for some time. A consumer may not discover this for some days, perhaps even after 30 days. If a washing machine damaged goods three months after purchase you should expect the retailer to reimburse costs of goods damaged by the washing machine so this would be the same with software.
- If software or computer games are unopened they are considered tangible form and once opened and put on a machine/in a toy etc. the 30 day rule still applies.
- Replacement or repair is, generally, a first stage that must be gone through before any refund is payable. If someone downloads an ebook, for example, and then insists on refund for any reason. The repair or replacement must be within a reasonable time and without significant inconvenience to the consumer, unless it is impossible or disproportionately expensive. Failing successful repair or replacement, the consumer could be entitled to a price reduction which can be up to the full price.
- If a trader advertised that an ebook would work on a particular device but it was actually incompatible with that device, the consumer would be entitled to a repair or more likely a replacement in the form of a version that is compatible with the device. If that is not possible, then the consumer would be entitled to a reduction in the purchase price, up to a full refund.
- There are no statutory provisions putting an obligation on the consumer to prove that the trader has breached the relevant consumer right. Replacement or repair is, generally, a first stage that must be gone through before any refund is payable, and this goes some way

towards protecting traders against opportunistic claims. Traders will no doubt establish customs and practices to guard against abuses of the right in relation to digital goods.

- If the consumer made a mistake and downloaded the wrong item, then this is not covered by the Consumer Rights Act. Depending on the specifics of the case, the consumer may have rights under the Consumer Contract Regulations (which provide the 14 day cooling off period for distance purchases) but many websites stipulate that by downloading the content the consumer loses that 14 day right as they have consumed the digital content.

Ticketing (Update pg 31)

Replace third paragraph The government announced in the 2016 Autumn Statement that it would consult on introducing a ban on letting agent fees paid by tenants. This consultation was completed in June and at the time of going to print the results have not been published.

Property Misdemeanors Act 1991 (pg 42)

Cut (no longer applies).

Unsolicited Goods and Services Act 1971 / The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 (Amendment pg 47 5th paragraph)

Should you receive a request for payment from a trader for unsolicited goods that trader has committed a criminal offence under the Consumer Protection from Unfair Trading Regulations 2014. You can report them to Trading Standards through the Citizen's Advice Bureau.

Chapter: Buying Goods

Mail order and online purchases (Addition pg 60)

If you paid extra for speedier delivery and it wasn't delivered within this time you are entitled to the charge back. If the item is faulty you do not pay return postage and you should receive the full cost of any postage paid for sending the item to you.

Furniture Ombudsman (Amendment pg 62)

The Furniture Ombudsman is the independent scheme for furniture, home improvements and floor coverings. Its role is to raise standards and resolve disputes between consumers and businesses. Businesses who are members of The Furniture Ombudsman follow a Code of Practice, which covers all domestic furniture (including fitted kitchen bedroom and bathroom installations) and floor coverings. So you have this option if you have used the in house resolution process or 3 months has passed since you raised the complaint, whichever is the soonest.

Chapter: Vehicles (Amendment pg 107-108)

Motor Codes has changed its name to The Motor Ombudsman.

Chapter: Holidays and Flights (Amendment pg 146 last paragraph)

Compensation for delays is only due on flights arriving three or more hours late, except for flights of less than 1,500km.

(Amendment paragraphs 3 & 4 pg 149)

If the company refuses to pay out you can take your case to the Civil Aviation Authority (responsible for the enforcement of consumer protection rules around issues like cancelled flights) after eight weeks. However, even if it rules in your favour, as a regulator it cannot oblige airlines to pay out. If your airline refuses to budge, the next step is to go to the Small Claims Court.

Some airlines are signed up to an Alternative Dispute Resolution body. You can look up which ones are signed up to what body on the CAA on their website. Some are approved by the CAA, others by EU Member States. Currently the CAA will deal with any airlines not members of an ADR scheme.

Car hire (Addition pg 154)

Before hiring a car, shop around and check what is included in the contract. Some quotes may appear cheap but there may be hidden add ons, such as different insurance levels. Theft protection may be extra (it is mandatory in Italy). This is one of the times it is probably better to deal with one of the larger companies based in the UK. They are more likely to have roadside coverage, better models and quality of cars. It will be easier to complain if things go wrong too! Pre-book in the UK for ease of comparing prices and for what is likely to be a cheaper deal.

When you take the vehicle check tyres, fuel tank and bodywork. Take photographs with the date on them if possible. This is your evidence should there be any dispute. Take photos again when returning the vehicle if necessary.

If you have a complaint, write to the company. If not satisfied with their response then you can take further. For UK rentals, the British Vehicle Rental and Leasing Association (BVRLA), can help you with complaints about its members. It has a code of conduct which members must abide by and it will investigate if a member has breached this. It aims to resolve disputes within 30 days.

The European Car Rental Conciliation Service (ECRCS) is the dispute resolution scheme for a number of car rental companies throughout the EU. So check this list before hiring so you know that you can take a complaint to an independent body if you have a complaint. This works in the same way as any other ADR scheme but for across the whole of Europe. In order to use ECRCS you must have booked with the company direct and not through a travel agent/broker.

There is also the European Consumer Centres Network, which has a free service to help resolve disputes and help you get your money back.

Chapter: Public Transport (Replace paragraph 2)

The Consumer Rights Act 2015 was applied to rail travel from 1st October 2016. You are now entitled to services carried out with reasonable skill and care. If they are not then you should be able to gain redress. Things for which you may gain redress under this Act are: overcrowding, not able to use a booked seat, a consistently late train for season ticket holders, no toilet on longer journeys or a service that's delayed for less than the time limit that applies under other compensation schemes. Be prepared to fight though, the rail companies would rather not improve their service so they didn't have to pay out for breaches of contract, methinks! So take photographic evidence wherever possible.

In addition, under the Consumer Rights Act you can claim for consequential losses. For example missing a further train and having to make alternative arrangements. You will need to provide evidence of how the rail company's failure caused this further loss.

If you are successful in claiming a refund, or damages for consequential loss, this must be paid within 14 days and in the same form you paid for the service. Rail companies can no longer pay you in vouchers. So, for example, if you paid in cash they must reimburse you with cash.

(Cut table)

There are plans for a new Rail Ombudsman to be in place for 2018.

Ferries/cruises (Addition pg 165)

The Consumer Rights Act 2015 was applied to ferries from 1st October 2016. You are now entitled to services carried out with reasonable skill and care. If they are not then you should be able to gain redress.

If your ferry service is cancelled or departure is delayed for more than 90 minutes, you are entitled to either an alternative sailing at the earliest opportunity at no additional cost or reimbursement of the ticket price which should be paid within seven days. If you choose an alternative crossing, you're still entitled to claim compensation for the delay to your original journey.

While you wait (when delayed for more than 90 minutes or it is expected to be cancelled) you are entitled to meals and refreshments if they can be reasonably supplied even if the reason is bad weather.

If an overnight stay is required due to the delay/cancellation then the ferry or cruise operator must offer you accommodation free of charge, if possible. This can be on board or ashore.

Your ferry company can offer alternatives such as permitting you to make your own separate plans to travel and reimburse your expenses. No overnight accommodation has to be offered or costs reimbursed if the delay is caused by weather conditions endangering the safe operation of the ship.

Buses (Replace first paragraph)

The Consumer Rights Act 2015 was applied to all travel from 1st October 2016. You are now entitled to services carried out with reasonable skill and care. If they are not then you should be able to gain redress.

Chapter: Communications (Addition pg 172)

From 31 October 2016, the Advertising Standards Authority recommended that in order for broadband providers to ensure they stay within the new rules, (regarding advertised fixed broadband price claims to avoid customers being misled) that future broadband ads which include price claims should:

- Show all-inclusive up-front and monthly costs;
- Not separate out line rental
- Give greater prominence for the contract length and any post-discount pricing
- Give greater prominence for up-front costs.

Roaming Charges (Addition pg 177)

Roaming charges are put in place when the network detects that you are abroad and consist of extra rates on top of what you normally pay. Charges for making calls, receiving a voicemail, picking it up, sending and receiving texts and pictures and, of course, using the Internet and downloading or streaming.

In 2007 the European Commission started to tackle reducing roaming tariffs when travelling in the EU. It has been progressively capping the maximum amount a mobile 'phone provider can charge for services in Europe. The costs were capped in July 2014 and again from 30th April 2016 (excluding VAT for calls, texts and downloading data). On the 15th June 2017 they ended completely. This is only for countries in the EU.

These price caps are the maximum permissible prices. Operators are free to offer cheaper rates, so keep an eye out for better deals.

All mobile operators have to apply a cut-off limit once you have used €50 (excluding VAT) – (around £44 as at November 2016) – of data per month, wherever you travel in the world unless you choose another limit.

The provider must send an alert to your phone when you reach 80% and then 100% of the agreed data roaming limit. Operators must stop charging for data at the 100% point, unless you agree to continue to use data.

Under the Consumer Protection from Unfair Trading (Amendment) Regulations 2014 the retailer must ensure the customer understands what goods and services are being provided and ensure that there

are no hidden costs. If the paperwork does not comply with these requirements you may not have to pay. When retailers send you an email confirmation of the purchase this must now include a full description of the goods and services purchased, including their characteristics, and the full price including tax and any additional charges or delivery prices.

Under the Consumer Rights Act 2015 traders must also provide services with reasonable skill and care.

Spam email/texts (Addition pg 179)

The Privacy and Electronic Communications Regulations 2003 cover the sending of email marketing. Organisations can only send marketing emails to you if you have agreed to receive them, except where there is a clearly defined customer relationship.

The Information Commissioner's Office (ICO) can only investigate complaints about marketing emails from identifiable UK senders. However, the ICO has an agreement with a number of overseas bodies to cooperate and exchange information to try and stop spam emails that are sent from non UK addresses.

Chapter: Home Improvements

Glaziers (Replacement pg 183)

If the glazier is a member of the Glass and Glazing Federation (GGF) or FENSA you can also use The Glazing Arbitration Scheme (TGAS). Where the glazier is a member of both, contact the GGF. However TGAS costs consumers £100 + VAT to take their complaint to arbitration. This is for a so-called "documents only" arbitration. If the appointed Arbitrator decides a site visit is necessary, then a reasonable additional fee will apply. You would be asked to pay 20% of this additional fee.

Ombudsman Services considers complaints regarding domestic installations undertaken by traders that belong to The Double Glazing & Conservatory Quality Assurance Ombudsman Scheme (DGCOS), who are contractors or installers of windows, doors, conservatories and associated products.

Home Insulation & Energy Systems (Addition pg 183)

Ombudsman Services considers complaints regarding domestic installations undertaken by traders that belong to The Home Insulation & Energy Systems Quality Assured Contractors Scheme (HIES) who are contractors or installers of home insulation, energy saving and energy producing products.

The Dispute Resolution Ombudsman (Addition pg 183)

Operated by the same people as The Furniture Ombudsman, this scheme helps to resolve disputes across a range of other sectors including retail and where tradesmen and tradeswomen are involved. This Ombudsman covers every trader within the Which? Trusted Traders scheme, such as electricians, plumbers and builders.

Chapter: Property (Replace first paragraph)

The Consumer Protection from Unfair Trading Regulations 2008 (amended 2014) (CPRs) regulate estate agents and other businesses involved in property sales and lettings. The CPRs prohibit all traders from using unfair commercial practices in their dealings with individual consumers, (see chapter 5, *Consumer Rights*). Estate agents are prohibited from engaging in commercial practices that are unfair to sellers, buyers, potential sellers or potential buyers of residential property.

Those agents found to have breached either the CPRs or BPRs could be at risk of prosecution by their local authority trading standards services who are responsible for enforcement by bringing criminal prosecutions. On conviction, agents can face substantial fines or in more serious cases imprisonment. Those classic descriptions of "Stunning" and "Highly sought after" now have to have evidence to back them up!

Chapter: Small Claims Court
 (Replacement of table pg 229)

Claim amount	Sending form to court centre	Using Money Claim Online
<i>Up to £300</i>	£35	£25
<i>£300.01 to £500</i>	£50	£35
<i>£500.01 to £1,000</i>	£70	£60
<i>£1,000.01 to £1,500</i>	£80	£70
<i>£1,500.01 to £3,000</i>	£115	£105
<i>£3,000.01 to £5,000</i>	£205	£185
<i>£5,000.01 to £10,000</i>	£455	£410
<i>£10,000.01 to £100,000</i>	5% of the value of the claim	4.5% of value of the claim
<i>£100,000.01 to £200,000</i>	5% of the value of the claim	N/A
<i>More than £200,000</i>	£10,000	N/A

If you don't know the claim amount choose the range for the amount you're claiming.

Claim amount	Fees
<i>Up to £10,000</i>	£500
<i>£10,000 to £25,000</i>	£1,250
<i>More than £25,000</i>	£10,000

Fees correct as of August 2017.