

## Consumer remedies when buying goods

This checklist sets out the remedies available to consumers when buying faulty goods. It also highlights the additional obligations your business owes to consumers when selling goods online, by telephone or by mail order.

### Who is a consumer?

Consumers are people who buy for purposes not related to their trade, business or profession. They have a greater choice of remedies than trade buyers.

### Implied terms in contracts for sale of goods

Certain terms are implied into **any** contract for the sale of goods and cannot be excluded in consumer contracts. In particular, goods must:

- **Correspond with their description.** For example, a dish that is described as “ovenproof”, but shatters when used under the normal conditions for making a casserole, will not correspond with its description.
- **Be of satisfactory quality.** Quality includes:
  - state, condition and fitness for all purposes which goods of that kind are commonly supplied;
  - appearance and finish; and
  - durability.
- Your business could be protected if:
  - you draw the consumer’s attention to unsatisfactory quality before the contract is made;
  - the consumer examines the goods before the contract is made and finds (or should have found) a defect.
- A consumer cannot hold your business responsible:
  - for fair wear and tear.
  - for misuse or accidental damage by the consumer.
  - where consumers tried their own repair or had someone else attempt a repair and this damaged the goods.

### Remedies if products are not of satisfactory quality

A consumer has four remedies when products do not conform to the contract for sale:

- **Rejection.** Consumers can reject the goods and request their money back, provided they complain within a reasonable time.
- **Damages.** A consumer can claim damages, which will generally equate to the cost of repair or replacement of the goods. They may also be able to claim compensation for damage

caused by faulty goods (for example, where a washing machine leaked). If buyers have accepted the goods, their only remedy is damages.

- **Repair or replacement.** If a consumer requests a repair or replacement, your business will need to carry them out within a reasonable time and without significant inconvenience to the consumer. Your business can refuse to repair the goods if the cost would be disproportionately higher than the cost of the replacement (or vice versa).
- **Refund.** A consumer can request a full or partial refund. Your business is entitled to request proof of purchase (for example, a till receipt or a credit card statement). Consumers do not have to accept credit notes when goods are faulty or not as described.

### **Time limits for bringing claims**

The time limit for a consumer to bring a claim is six years (five years in Scotland). The date generally runs from the date the goods were sold, although there are some exceptions to this. The fact consumers have five or six years to bring a claim, in theory, does not mean all goods should last this long in practice.

### **Minimising losses**

Consumers must take reasonable steps to mitigate their loss. For example, they should report faults as soon as possible, to make it easier for them to show the goods were inherently faulty at the point of sale and to prevent the goods from deteriorating further.

### **Additional obligations for traders selling goods online, by telephone or mail order**

There are four main obligations on your business when it sells goods online, by telephone or mail order. They are:

- To provide up front information to consumers before the contract is concluded.
- To provide certain information to consumers before the delivery of the goods or supply of the services requested. For example:
  - a description of the main characteristics of the goods your business is offering; or
  - the price of the goods your business is offering (including all taxes).
- To commit to deliver the goods within 30 days.
- To provide a seven (working) day cooling-off period, during which consumers can cancel the contract without penalty and **without giving a reason**. The only charge that can be made to consumers exercising their rights is the direct cost of returning the goods. If your business does not provide consumers with details about their right to cancel the contract, the period is extended **from seven days to three months**.

There are certain exceptions to these rules, such as the supply of products that, by their nature, may not be returned (for example, perishable food) or bespoke products.

**More information** If you have any questions about the content please contact David Lee of the Company Commercial team on 02476-234-265 or e-mail [davidl@n-v.co.uk](mailto:davidl@n-v.co.uk)