

Part B: Your obligations under the Consumer Rights Act 2015 (CRA)

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8. Introduction

8.1

The Consumer Rights Act 2015 (CRA) now governs the sale of goods (including cars) to consumers.

As a second-hand car dealer you need to know how the law affects you and your customers.

8.2

The law on the sale of goods has evolved over many years. Previous legislation included the Sale of Goods Act 1979 (SoGA), as amended. From 1 October 2015, this was largely replaced by Part 1 of the CRA for sales to consumers. SoGA continues to apply to sales to business buyers. Please note that Part B of this guidance only applies to sales to consumers.

8.3

A number of the provisions of SoGA – e.g. “satisfactory quality” and “as described” – are little changed in the CRA. But there are also new provisions, such as the 30-day “short-term right to reject” and the “one repair or replacement” rule.

8.4

Of necessity some of the examples given have been simplified to illustrate particular points.

8.5

If you fail to fulfil your obligations under the CRA, a customer can take court action against you for breach of contract. You may also face enforcement action by Trading Standards. Failing to meet your obligations under the CRA may in some cases also constitute a breach of the CPRs (see paragraph 4.2).

9. Your legal obligations

9.1

When you sell a second-hand vehicle to a consumer you have certain legal obligations under the CRA.

Before the sale: Make sure that the vehicle is of satisfactory quality

What is meant by ‘satisfactory quality’?

9.2

Consumers are entitled to vehicles of ‘satisfactory quality’. Satisfactory quality means that the vehicle you sell should be of a standard that a reasonable person would expect, taking into account a number of factors including the vehicle’s:

- age
- value/worth and price
- history (including mileage)
- intended use
- make
- durability
- safety
- description (spoken or in writing)
- freedom from minor defects
- appearance and finish

9.3

Whether a vehicle is of satisfactory quality will therefore depend on the particular facts and on the extent to which the actual condition of the vehicle matches the consumer’s reasonable expectations. For example, in judging whether a recently bought seven-year old car was of satisfactory quality it would be reasonable to take account of the price of the car. This could be far less than for a new vehicle and so expectations should be lower. It would also be reasonable to assume that the performance might not be as good and the quality of the finish could fall far short of new condition. In summary, with second-hand cars, it is reasonable to expect some wear and tear and for it not to be in the perfect condition of a new car – for example, there may be some scratches to the paintwork. However, it would still need to conform to any description given to it and should be judged in accordance with the standard and performance that was reasonable to expect in a similar car of that age, mileage and model.

Example

An old car with a high mileage will not be expected to be as good as a newer car with a low mileage, but

it should still be fit for use on the road, in a condition which reflects its age and price.

Some points to remember

9.4

It is not sufficient that a vehicle is merely roadworthy and safe under the Road Traffic Act 1988 and/or the General Product Safety Regulations 2005. The requirement of satisfactory quality extends to other matters besides safety and roadworthiness.

9.5

Even where a vehicle has a minor defect, it may still be of unsatisfactory quality, for example if that defect has a serious knock-on effect (for instance, where the defect causes extensive damage so that the vehicle can never be restored to its previous condition, or the defect renders it dangerous to drive the vehicle). When a used vehicle develops a fault after purchase, whether that renders the car to not be of satisfactory quality will depend on many factors - including the price, age, mileage and any description applied to the car.

9.6

You are liable for faults with the vehicle that were present at the time you sold it (where they mean the vehicle was not of satisfactory quality), even though they may only become apparent later on - so called 'latent' or 'inherent' faults. In some instances the specific fault complained about may not have been present at the time of purchase but the inherent cause of the problem could have rendered the vehicle unsatisfactory at the time of sale, e.g. the hand brake cable is worn but this is only discovered when the hand brake ceases to function after two months.

9.7

You are liable for public statements about the characteristics of the vehicle made by you or the manufacturer, e.g. in advertising, product brochures etc.

9.8

You are not liable however:

- For fair wear and tear, where the vehicle broke down or fault emerged through normal use.
- For misuse or accidental damage to the vehicle by the consumer.
- If you specifically draw to the consumer's attention the full extent of any fault or defect before they buy the vehicle - for example, if you draw to the consumer's attention that a vehicle has a specific worn part before they decide to buy it.
- If the consumer examined the vehicle before buying it and should have noticed the fault. Note: where the vehicle is examined by the consumer rather than an expert, this mainly applies to cosmetic defects such as scratches or dents that are obvious. You will remain liable for defects that were not apparent on a reasonable examination.

Example: Satisfactory quality

- You sell a car but your mechanic fails to tighten a wheel properly. Shortly after purchase, the consumer is driving the car and the wheel comes off, causing significant damage to the suspension. The car is not of satisfactory quality.
- A consumer buys a six-month-old car from you for £20,000. The car is described as having a state-of-the-art bluetooth sound system. The audio system is faulty and fails to connect with the owner's iPhone or her husband's Android phone, both of which have been shown to be compatible with other cars' audio systems. Following significant repair attempts you cannot fix the audio connectivity problem. This vehicle is unlikely to be of satisfactory quality.

- A consumer buys a 10-year-old car from you for £3500. You fully disclose all the known history of the car, including its having travelled 120,000 miles and had four previous owners. After four months, a fault develops with the clutch, which needs to be replaced. Industry experience shows that clutches on this model of car typically need replacing on average after eight years or 100,000 miles. This is likely to be deemed “fair wear and tear” and so the car would not be unsatisfactory under the CRA.

Make sure that the vehicle is fit for purpose

9.9

The consumer must be able to use the vehicle for the purposes that you would normally expect from a vehicle. This means not only driving the vehicle from one place to another but doing so with the appropriate degree of comfort, ease of handling and reliability that a reasonable person would expect from that vehicle. If a vehicle keeps breaking down then it is not fit for purpose.

9.10

Where the consumer says – or when it should be obvious to you – that the vehicle is wanted for a particular purpose (even if that is a purpose for which the vehicle is not usually supplied) and you agree that it will meet those requirements, then the vehicle will have to be reasonably fit for that purpose. If you are not confident that the vehicle will meet the consumer’s particular requirements, you should make this clear to them and put this in writing to protect yourself against future claims.

Example: Fit for purpose

A consumer explains to you that he wants a car that is suitable for towing his caravan and tells you the weight which is required to be towed. He is assured by you that a particular car is suitable to meet his requirements. You will be subsequently liable if the car you sold was not sufficiently powerful to tow the caravan as the consumer relied on your expertise. The car was not fit for the particular purpose the consumer made known to you at the time of sale.

Make sure that the vehicle corresponds with any description you give to it

9.11

Any description of the vehicle must be accurate – this applies to a wide range of methods of description, including information given:

- over the telephone
- in the course of discussions in person prior to the sale of the vehicle
- in writing in advertising on the vehicle or in the showroom
- in a newspaper, website, email or text
- in television or radio advertisements
- in documentation provided to the prospective buyer

If the vehicle does not correspond with the description, you will be in breach of contract. You may also be in breach of the CPRs.

Example: As described

If you sell a vehicle which you describe as ‘2012 registered, a 1600cc engine, and has air-conditioning’ you must ensure that it has been registered in that year, has a 1600cc engine size and that it has working air-conditioning.

Make sure you have the right to sell the vehicle

9.12

You must ensure that you have the right to sell the vehicle and in the case of an agreement to sell, that you will have such a right when the vehicle is sold. If you do not have the right to sell the vehicle the consumer has the right to reject the vehicle and recover the purchase price.

9.13

You should therefore check that the vehicle is not subject to a pre-existing finance agreement before you offer it for sale. If the credit or finance agreement (for example, hire purchase) remains unpaid when you purchase the vehicle, you will not acquire good title (legal ownership). In that case the lender may have a right to take possession of the vehicle. If the vehicle is still subject to a finance agreement and you sell it to a private buyer (who doesn't know about the finance) then that buyer is likely to get good title and keep the car. You could then be legally liable to the finance company and the private buyer.

9.14

If you fail to check whether a vehicle is subject to outstanding finance you will also increase your risk of breaching the CPRs.

Example: Right to sell (Title)

You purchase a car – for example as a part-exchange – which has an outstanding hire purchase agreement on it. You then sell the car to a consumer. You will not have acquired good title to the car and the consumer is entitled to exercise their right to reject the vehicle and reclaim the purchase price from you. The consumer may, in certain circumstances, instead decide to keep the car. You could then find yourself liable to the finance company who provided the hire purchase agreement.

After the sale: Your customer's rights

9.15

If you fail to fulfil your obligations under the CRA – in respect of either satisfactory quality, fitness for purpose, description or the right to sell the vehicle – you will be in breach of contract and the consumer will be entitled to a number of remedies against you. What remedy the consumer is entitled to will depend on a number of factors, including:

- how long ago you sold the vehicle to the consumer
- the remedy the consumer is asking for
- the seriousness of any fault or defect
- whether the fault or defect keeps recurring
- the cost of carrying out repairs or replacing the vehicle.
- what is possible in the circumstances
- proportionality
- the need to avoid “significant inconvenience” to the consumer

The short-term right to reject

9.16

For a period of 30 days after the sale, if the vehicle fails to meet any of the requirements detailed in paragraphs 9.1- 9.11, the consumer can “reject” it and receive a full refund. The 30 days starts when the consumer receives the vehicle and does not include any days that it is back in the garage for repairs.

Example: Misdescribed history

You describe the car as having one careful owner but it has had four private owners, all consecutively registered as keepers. The consumer discovers this after three weeks and considers that you have breached the legal requirement that the car matches the description you applied to it. The consumer has a right to reject the car and receive a full refund. You may have also committed an offence under the CPRs.

9.17

If the consumer asks for repair or replacement during the initial 30 days, the period is paused so that the consumer has the remainder of the 30-day period, or seven days (whichever is later) to check whether the repair or replacement has been successful and to decide whether to reject the goods.

Example: Waiting period

Car develops fault on day 26 and is returned to the dealership for repair; the car is returned on day 29 said to have been repaired – if it has not been repaired satisfactorily the consumer has until day 36 to reject the vehicle.

9.18

In the event of rejection, the consumer must receive a refund without undue delay, and in any event within 14 days of the trader agreeing that the consumer is entitled to a refund. In such cases, if you want the consumer to return the vehicle to where they took possession of it (for example, at your premises), you must make this requirement part of the contract and notify the consumer clearly prior to purchase. Otherwise, the consumer only has to make the vehicle available for collection by you, regardless of where they live. Note too, that even where the return location of the car is part of the contract, the consumer may be able to claim reasonable expenses (such as employing a recovery service for a broken down vehicle) if they are obliged to return the car to a different location from where they originally took possession.

Example

A consumer discovers that a one-year old car he bought from you for £19,000 a few days ago has a major engine fault. The consumer was from a different region of the UK and took possession of the car at your premises. Your contract contained a term obliging the consumer to return the car to where they took possession of it if exercising their right to reject. He complains to you straight away and requests a full refund but you dispute his claim. He takes the car to an independent garage and they confirm that the engine was in a very poor condition when sold. The consumer provides you with a written report of the garage's findings and asks you for his money back. If the findings in the report are reasonable and validate the consumer's complaint, you should accept the car back and provide a full refund. The consumer does not have to agree to other remedies, e.g. repair. The consumer takes a day off work to return the car to your premises and then brings a claim for damages against you for his lost income for that day.

Repair or replacement**9.19**

If a breach of contract (as described in para 9.15) arises after 30 days, the consumer has a right to a repair or replacement. Generally the consumer can choose which remedy he prefers, although the choice must not be impossible to fulfil or disproportionate compared to the other remedy.

Example: Replacement disproportionate

You sell a car which has an unusually low mileage and good condition for a vehicle of its age and model. After two months, a problem arises with the gearbox which can be easily and quickly repaired by your mechanic. The consumer seeks a replacement but you know that it will be very difficult and time-consuming to source a sufficiently similar car. It is likely that the consumer's demand is disproportionate and they would have to accept a repair.

9.20

The remedy must be supplied to the consumer at no extra cost, within a reasonable time and without significant inconvenience to the consumer.

ONE repair or replacement

9.21

The trader has ONE opportunity to provide a remedy. If this fails to resolve the problem, the consumer can reject the vehicle. So, if an attempted repair does not resolve a fault or if a replacement vehicle is not of satisfactory quality, the consumer can seek a refund at that stage, without having to give the trader further opportunities to resolve the matter. This does not prevent the consumer from accepting a further attempt at repair or replacement if he agrees to it.

9.22

A remedy is also deemed to have failed if it is not supplied in a reasonable time, or if significant inconvenience has been caused to the consumer. Again, the consumer can seek a refund in such circumstances.

Example: Failed repair

You sell a two-year-old car with average mileage to a consumer but a significant problem develops with the engine after three months. You take the car in and attempt to repair. Within a week of receiving the car back, the consumer realises that the problem has recurred and the repair has failed. You want to have another go at fixing the problem but the consumer can insist on rejection and refund.

9.23

The concepts of "reasonable time" and "significant inconvenience" are not defined in detail and will depend on the circumstances of each case.

Example: Failed replacement

A consumer comes to you looking for a specific "high-end" car with a key-less entry system option. This is discussed in detail and is clearly a main priority. You source and sell the consumer an almost new car but unfortunately the key-less entry system does not always work properly, and the consumer returns the vehicle to you. There is no repair option so you replace the car with a similar model, but it also has problems with the key-less entry system. The consumer can seek a refund.

9.24

When a consumer is pursuing a repair or replacement remedy to a breach of CRA, a dealer must "bear any necessary costs incurred" in carrying out the remedy. This would include the cost of returning the vehicle to the garage. Note that the provision excluding the cost of returning a car to the garage in the event of rejection (see paragraph 9.18 above) does NOT apply where a repair or replacement is being sought. Instead the remedy must be supplied "free of charge".

Example: Significant inconvenience

You sell a used car to a consumer and a fault develops after a few weeks. You agree that you are liable to repair but due to the need to order unusual parts and a busy period at your business the vehicle will not be ready for several weeks. This may be deemed to be “significant inconvenience” and so the supply of a courtesy car will ensure that the consumer cannot insist on a refund at this stage.

Deduction for use

9.25

If you do apply a deduction for use, it must reflect the use that the consumer has had from the goods. The law does not prescribe how to calculate the deduction. But you must be able to show that it reflects the use that the consumer has had, rather than, for example, reducing the refund to the current second-hand value of the goods. You can consider all relevant information (for example the type of goods, the intended use, expected lifespan, etc.) when assessing how much use the consumer has had and what level of deduction would be appropriate to reflect this. For example, in the case of a car, you will have evidence of the mileage, whereas for other goods you might need to assess the wear and tear that the goods show. In some situations there may be no evidence either way. (Extract from Page 52 of BIS/15/567 – Consumer Rights Act: Goods Guidance for Business – September 2015.)

Example: Deduction for use

A £25,000 pre-registered car develops a serious gearbox issue after five weeks of use and the car is replaced by the dealer with a near identical vehicle. Four months later the replacement vehicle develops the same gearbox fault and the consumer rejects the car seeking a refund. The consumer had travelled 4,000 trouble-free miles in the past five months before the gearbox failed for the second time. The dealer can take into account the miles travelled and any other relevant objective assessments when calculating the final refund. Simply refunding the current second-hand value of the vehicle would not be acceptable.

Example: No reduction in refund

A consumer buys a £35,000 motorhome and travels abroad doing 5,000 miles in 21 days. The consumer discovers a significant inherent electrical fault. The buyer can reject the vehicle and claim a full refund despite the extensive use due to this being a breach of satisfactory quality claimed in the first 30 days.

Reduction in Price

9.26

Another possible remedy for the sale of an unsatisfactory vehicle is for the buyer to keep it but receive a reduction in the purchase price to reflect its failings. A price reduction must be an appropriate amount, which will depend on all the circumstances of the claim. It can be any amount up to the whole price.

9.27

This remedy is available to a consumer as an alternative to the final right to reject and becomes available under the same circumstances, i.e. either after one repair or replacement has failed, or if a repair or replacement has not been supplied in a reasonable time, or without significant inconvenience to the consumer. In these circumstances, the consumer can choose between a price reduction and rejection (with a possible deduction for use).

Example: Price Reduction

The consumer reports that the music system in a car sold by you doesn't work and you inform him that you will source specialist help in repairing the problem. He contacts you repeatedly over the next three months but no progress is made in resolving the problem and the consumer employs another garage to fix it. He is likely to be able to claim from you a price reduction equal to the amount paid for the repair.

9.28

It is also worth remembering that there is nothing to prevent buyer and seller agreeing on a remedy that is agreeable to both parties, even if all the standard processes of the CRA have not been followed. The consumer must freely agree and not be coerced in any way.

Example: Quick solution

A consumer reports several minor faults with a car you have sold. To save time and effort, you suggest that, instead of attempting to remedy the problems, you will make a proportionate reduction in the price. The consumer accepts your offer.

Other Costs

9.29

In addition to the obligations described above, a consumer may also have a claim for additional sums, e.g. the cost of an independent report carried out on a faulty vehicle to prove their claim. Such additional sums must be reasonable and directly connected to the unsatisfactory nature of the vehicle.

Time limit for bringing a claim

9.30

A consumer can take legal action up to six years from the date they bought the vehicle (five years in Scotland). This does not mean that the vehicle has to last or be fault free for six years; it is the time limit for making a claim in respect of a fault that was present at the time of sale.

Summary of remedies

9.31

The flowchart overleaf summarises the consumer's remedies where a vehicle is of unsatisfactory quality.

Download the flowchart 'Summary of consumer remedies'

10. Finance agreements

10.1

The provisions of the CRA also apply to the supply of vehicles to consumers through a range of finance agreements, including hire purchase (HP), personal contract purchase (PCP) and personal contract hire (PCH). See paragraphs 9.1 to 9.14 above for the details of the applicable provisions.

10.2

However, under such contracts, a consumer's legal rights and remedies are against the finance company and not the car dealer. The dealer's obligations are to the finance company and will be detailed in the agreement between the two businesses.

10.3

A consumer also has other rights under hire purchase agreements. These include the right to terminate the agreement without penalty if more than half of the total price has been paid. PCP agreements are a type of hire purchase agreement and consumers have exactly the same termination rights.

10.4

Additionally, dealers have some obligations in terms of acting as a conduit between the consumer and the finance company. For example, if a consumer supplies a written note of cancellation to a dealer, this must be forwarded to the finance company. Furthermore, if a consumer has the right to rescind (unwind, reject) a contract and they give notice of that rejection to the dealer who introduced them to the finance company, then the dealer is obliged to pass that notice to the finance company. (Consumer Credit Act 1974 Sections 102 & 175)

Example: Defective car on PCP

A consumer receives delivery of a pre-registered almost new £30,000 car under a PCP plan. The car develops a serious gearbox fault one week later. The consumer rejects the vehicle at the supplying dealership under the 30-day provisions. They do not have to accept a repair and the warranty is irrelevant. The garage must properly inform the finance company of the consumer's decision. The consumer should be put back in the same position they were at the outset and responsibility for that ultimately lies with the finance company, but the dealership will inevitably play a coordinating role under the terms of their brokerage/agency agreement.

11. Warranties/guarantees

11.1

Any warranty or guarantee you sell or provide for free with the vehicle is in addition to the consumer's legal rights under the CRA. It is not a substitute for those legal rights.

You cannot, for instance, refuse to deal with a consumer's complaint about a fault or defect with a vehicle simply on the grounds that:

- The consumer's warranty/guarantee has expired, or
- The type of fault is specifically excluded from the warranty/guarantee coverage.

Free warranties/guarantees

11.2

If you offer the consumer a free warranty or guarantee, it:

- Will be legally binding.
- Will have to be written in English and in plain intelligible words.
- Must state that it does not affect the consumer's legal rights.
- Must be made available for viewing by consumers before purchase.

11.3

There is a pre-contract information requirement under CCRs (see paragraph 15.7) to give information on any guarantee or warranty you offer.

Examples:

- A consumer buys a four-year old car from a dealer at a cost of £15,000. The dealer provides the consumer with a free three-month warranty with the car. The engine seizes up after four months due to a fault – it will be presumed to have been present at the time of purchase in the absence of any proof from the dealer to the contrary. The dealer cannot then refuse to repair or replace the car simply because it is out of warranty. The consumer is entitled to a repair or replacement as the car was not of satisfactory quality at the time of purchase.
- A consumer buys a five-year-old car from a dealer at cost of £7,000. The dealer also sells the consumer a 12-month warranty with the car. The gearbox fails after four months due to a fault – it will be presumed to have been present at the time of purchase in the absence of any proof from the dealer to the contrary.
- The warranty cover specifically excludes problems with the gearbox. The dealer cannot refuse to repair the gearbox because it is not covered by the warranty. Statutory rights still apply and the consumer is entitled to a repair or replacement as the car was not of satisfactory quality at the time of purchase.

12. Attempting to limit your liability under the CRA

12.1

A consumer's legal rights under the CRA cannot be taken away or restricted, and any attempt by you to do so by using an exclusion clause or similar notice will be void and therefore unenforceable (you will not be able to rely on it in a dispute with a consumer).

Examples: Unlawful words or statements

- Sellers cannot use words or statements in sales to consumers such as 'Sold as seen', 'Unroadworthy', 'Trade Sale Only', 'No Refund', 'Spare or Repair' or 'Sold as Scrap', even if the statement 'this does not affect your statutory rights' is included.
- Including terms in a contract that require the consumer to make declarations about what had or had not been said about a vehicle's mileage and defects and/or affirming that they had examined the vehicle and had any faults pointed out to them. Such terms could be used to exclude liability arising under the CRA. If untrue, such 'declarations' are ineffective and may mislead consumers with legitimate grievances that they have signed away their rights. Where they are true, such declarations are unnecessary.

13. What happens if you don't comply with the CRA?

13.1

If you do not honour your obligations under the CRA, the consumer may bring a court claim against you.

Alternative Dispute Resolution

13.2

Another option for a consumer is to use an Alternative Dispute Resolution (ADR) provider (see Chapter 16 for more details). This may be a dedicated motor trade scheme (e.g. the Motor Ombudsman; Scottish Motor Trade Association's Complaints Conciliation Service) or a general provider such as the Consumer Ombudsman. If you are signed up to a members' scheme you must co-operate with that ADR process. If you are not a member of a scheme and are contacted by a general ADR Provider, you are not under an obligation to participate. However, in many cases it may be suitable to do so, especially to avoid the expense and inconvenience of potential court action. Note that you are also obliged to provide the

information listed at paragraph 16.7.

You may also face enforcement action.

Enterprise Act 2002

13.3

Trading Standards can take civil enforcement action against you under Part 8 of the Enterprise Act 2002 in respect of breaches of the CRA which harm the 'collective interests of consumers' in the United Kingdom. Enforcers can use a range of tools to ensure that traders are complying with the law. This can include applying for a court order to prevent or stop breaches. Breach of any order could lead to up to two years imprisonment and/or an unlimited fine.

Consumer Protection from Unfair Trading Regulations 2008

13.4

Failing to meet your obligations under the CRA may also constitute a breach of the CPRs, for example, where you:

- Mislead consumers about their legal rights.
- Systematically fail to carry out pre-sale mechanical checks before you advertise, market or sell vehicles.
- Obstruct consumers who have bought vehicles of unsatisfactory quality from you and are trying to exercise their rights to redress under the CRA, for example, if you refuse to listen to complaints or wrongly tell consumers that they have no right to redress.

14. Other aspects of the Consumer Rights Act

Service contracts

Statutory Rights

14.1

When you service a consumer's vehicle you have certain legal obligations under the CRA.

14.2

If you supply a service you must meet the following standards:

- The service must be carried out with reasonable care and skill. This means that you must, as a minimum, work to the same standard as any reasonably competent person in the motor trade.
- Information given in writing or orally to the consumer is binding where the consumer relies on it. This will include quotations and any promises about timescales or about the extent or scope of the service. This applies if the consumer takes account of this information in deciding whether to buy the service or to make any decision about the service subsequently.
- The service must be done for a reasonable price. A service will often specify a price, or it will be clear about how the price will be calculated (for example, an hourly rate). Where the agreement does not specify a price or method for calculating price, the service must be done for a reasonable price.
- The service must be carried out within a reasonable time. Often, a contract will specify a date or

time for the service to be performed or completed. Where there is no agreement about time, the timescale must nevertheless be reasonable. What is reasonable depends on the type of service and all other relevant circumstances.

Remedy for breach

14.3

If you breach the contract by failing to meet the required standards for the supply of services the consumer can expect you to put things right.

14.4

In these circumstances, the law says that the consumer is entitled to repeat performance of the service or to a price reduction.

Repeat performance

14.5

This remedy is available where the trader fails to exercise reasonable care and skill or where they breach a requirement arising from information they have given about the service. The consumer can require you to repeat the service in order to complete it properly. This work must be done at no cost to the consumer, within a reasonable time and without causing significant inconvenience to the consumer.

14.6

The consumer cannot ask for repeat performance where it would be impossible to finish providing the service to the required standard.

Price reduction

14.7

The consumer can claim a price reduction where repeat performance is impossible or cannot be done within a reasonable time and without causing significant inconvenience. A price reduction can also be claimed where the service is not done within a reasonable time.

14.8

The amount of the price reduction will depend on how serious the breaches were and it can be anything up to 100% of the price. If the consumer has already paid in full or in part for the service, he may therefore be entitled to some money back.

Other remedies

14.9

The remedies under the Consumer Rights Act 2015 do not include a right for the consumer to have someone else complete the service and then to charge this to the original motor trader. However, the Act does not take away the consumer's existing legal rights, which can include claiming compensation.

14.10

Normally, a consumer will be happy to let you put things right, but there are cases where the service has been performed so badly that it would be unreasonable to expect the consumer to give the trader a second chance. There may also be circumstances where it would be impractical to do so.

Example:

Your mechanic repairs a vehicle but two days later it breaks down hundreds of miles from the original garage due to the work not being done correctly. The consumer may be entitled simply to claim the cost

of remedial work by another motor trader.

14.11

However, even in the example above, it makes good sense for the consumer to discuss his concerns and intentions with the original motor trader first in order to try to come to some sort of agreement about this.

Exceptions - when the consumer cannot make a claim

14.12

A consumer cannot make a claim where, despite the service being carried out with reasonable care and skill, it does not achieve the consumer's desired outcome, unless that outcome has been agreed first.

14.13

A consumer cannot make a claim where it is the consumer, and not the trader, who is responsible for things going wrong. If, against the trader's advice, a consumer asks the trader to use inappropriate methods or to take short cuts to save money, the consumer has no claim to the extent that these methods or short cuts give a disappointing result. If a trader agrees to do work on this basis, it is advisable to make a written record of what has been agreed and of the risks of poor results.

14.14

A consumer cannot claim for damage they cause. Nor can they claim if they simply change their mind about wanting the goods or services unless the contract allows them to do so through a cooling-off period or right to cancel.

14.15

A consumer has no rights to claim for faults that appear as a result of fair wear and tear.

Dealing with complaints

14.16

Under the Provision of Services Regulations 2009, traders are under a legal duty to respond to consumer complaints as quickly as possible and to make their best efforts to resolve those complaints. This means that traders must respond to phone calls, emails and letters of complaint. Where a complaint appears to be valid, you should put things right promptly.

If you dispute liability, you should give a clear explanation of your reasons.

Time limits for court action

14.17

Where goods are installed as part of a service, consumers can expect those goods not to fail prematurely, even if the reasonable life expectancy of those goods is several years. However, there is a time limit that eventually prevents consumers from making a claim through the courts.

14.18

For a breach of contract, a consumer can bring a claim to court within six years of discovering a fault (five years in Scotland). If you have offered a guarantee on the work then you have to honour the guarantee.

14.19

This does not mean all goods have to last this length of time, but this is the time limit that the law gives a consumer to take legal action.

Features of the Consumer Rights Act 2015 not covered by this guidance

Unfair contract terms

14.20

The Consumer Rights Act 2015 also covers the use of unfair terms in consumer contracts. This is a specialised area of law and is not covered in this document.

For more information please visit these websites:

www.businesscompanion.info/unfair-contract-terms

www.gov.uk/government/publications/consumer-protection-from-unfair-trading-regulations-traders

Enforcement Powers

14.21

The Consumer Rights Act 2015 consolidates the enforcement powers of Trading Standards officials, for more information see: www.businesscompanion.info

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