

The supply of services / goods with services – before 1 October 2015

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This guidance is for England & Wales

This is a guide to the rights and obligations that arise when a consumer buys services from a trader, including when goods are supplied as part of a service. It answers questions that are commonly raised by traders about their obligations towards the individual consumer.

This guidance only applies to contracts made before 1 October 2015.

Consumer Rights Act 2015

The rules relating to the supply of goods, services and digital content changed on 1 October 2015 for contracts made from that date. A single set of rules now apply to all contracts where goods are supplied, including sale, hire, hire-purchase and work / materials contracts. New rules also apply to the supply of services and the Act sets out, for the first time, specific rules relating to digital content.

Whilst the new legislation brings many changes, the overall picture is that consumers' rights in relation to the supply of goods and services remain similar to those that applied under the previous laws. For most traders, the most significant changes are increased clarity over the right to reject goods and when that right is lost, and the new presumption that consumers should not have to accept multiple attempts at repair or replacement. The right to reject is subject to a fixed 30-day period, and the existing remedies of repair, replacement, part refund and rescission remain in effect. Where a consumer who has lost the right to reject then asks for repair or replacement, the trader has just one chance to get this right before the right to reject is reinstated.

For more information please see:

- ['The sale & supply of goods'](#)
- ['The supply of services'](#)
- ['Digital content'](#)

What is a trader?

If you are a 'person' acting for purposes relating to your trade, business, craft or profession then you are a 'trader'.

A person can mean more than one individual - for example, if your business is a partnership of two or more people. A person can also be a company, a charity (or other not-for-profit organisation), a government department, a local authority or a public authority.

If you are a trader that allows another person to act in your name or on your behalf you would still be responsible for those contracts - for example, if you employ people to make contracts for selling cars to your customers or you sub-contract with someone else to supply labour when building a wall.

What is a consumer?

For the purposes of this guide, a consumer is an individual who, in his dealings with a trader, is not acting for the purposes of a business. Where a consumer presents himself as a business (for example, by setting up a business account for buying a service) the law does not consider him to be a consumer.

If the trader wants to claim that the customer is not a consumer, and that the customer's rights are therefore limited, it is for the trader to prove this.

Formation of a contract

The contract

When a consumer buys services from a trader, both parties enter into a binding contract. A contract may be defined as an agreement between two or more parties that is intended to be legally binding. The contract may include various 'express terms' and 'implied terms'. Express terms are those that are specifically agreed between both parties - for example, the price in most contracts or an agreed completion date. Implied terms are those that are deemed to exist even if they have not been specifically agreed, either because they reflect the parties' obvious intentions and are necessary for the contract to work, or because the law applies them to the contract. The terms implied by law are usually referred to as consumer or statutory rights and they cover issues such as the standard of work, price and the time for completion, as well as the quality and fitness for purpose of any goods supplied as part of a service.

In order for an express term to be binding it must clearly be part of the contract and be legal. Terms given to a consumer after the contract is made (for example, terms written only on the back of a receipt) are not part of the contract and they have no effect.

A contract does not have to be written down, but where there are key express terms it is advisable to detail these in writing so there can be no dispute later on.

Failure to comply with the terms of the contract is referred to as a breach of contract, and the person committing the breach normally has to correct it in some way.

How is the contract made?

The essential element in forming a contract is the agreement (consisting of an offer and acceptance). At least two parties are required (such as the trader and the consumer). One of them (the offeror) makes an offer, which the other (the offeree) accepts. An offer is an expression of willingness to contract made with the intention that it shall become binding on the offeror as soon as it is accepted by the offeree.

When a trader advertises services (for example, in a price list) it is usually giving consumers what is referred to as an 'invitation to treat'. The consumer can then make an offer to buy the services. At this point the trader is under no obligation to accept the offer - a contract is made if and when the trader accepts.

Sometimes, the process works the other way round - that is, the trader makes an offer to the consumer and a contract is made when the consumer accepts the offer.

Under the contract, the consumer will agree to pay the trader a sum of money and/or to do something else in return for the services the trader supplies. This commitment is known as the 'consideration' in the contract. If there is no consideration (that is, if a trader offers to supply services completely free of any charge or other obligation) there is no contract at all.

What happens when the consumer changes his mind?

Normally a consumer has no automatic right to change his mind and to cancel a contract; therefore if this happens he is in breach of contract. However, there is an automatic right to cancel in some special cases, including most consumer contracts made at a distance (for example, mail order or internet) or at a consumer's home etc. See 'Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013' below.

If a consumer cancels the contract wrongfully, the trader can claim the reasonable costs incurred. Where the

trader cannot recover the lost sale (for example, by making another booking in place of the cancelled one) they may be entitled to claim loss of profit too. If the consumer has made full- or part-payment up front, the trader can only retain enough to cover these losses and must refund the difference.

The implied terms

Under the Supply of Goods and Services Act 1982, certain terms are implied by law in every contract for the supply of services. A trader supplying a service must meet the following standards:

- **the service must be carried out with reasonable care and skill.** This means that the trader must, as a minimum, work to the same standard as any reasonably competent person in that trade or profession. The law does not imply that any particular result will be achieved (for example, a competent doctor will not necessarily be able to treat every patient successfully) but many contracts will have express terms as to what result the customer can expect from the service. To minimise the risk of disagreement, it is advisable to state clearly where a particular result has been agreed and where there is a risk of the desired result not being achieved
- **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 specific agreement about time, the timescale must nevertheless be reasonable. What is reasonable depends on the type of service and all other relevant circumstances
- **the service must be done for a reasonable charge.** Again, a contract will often specify a price, or it will be clear about how the price will be calculated (for example, an hourly rate). Where the price is not agreed beforehand, the price must be reasonable. Typically, this will be judged against the prices that other similar traders might have charged

In addition, there are many cases where goods are supplied as part of a contract for the supply of services. For example, materials are usually supplied as part of a contract for home improvements or maintenance, and parts are usually supplied when a vehicle is serviced. Certain terms are implied by law in relation to goods supplied as part of a service.

The person supplying the goods must have the right to do so and the goods must:

- **correspond with the description.** The goods must be 'as described'. If the description is false, an offence may also have been committed
- **be of satisfactory quality.** Goods must be of a standard that a reasonable person would regard as satisfactory. Quality includes matters such as:
 - appearance and finish
 - freedom from minor defects
 - safety
 - durabilityIn assessing quality, all relevant circumstances must be considered, including price and description. In consumer contracts, the manufacturer's advertising can also be taken into account
- **be fit for purpose.** When a consumer indicates that goods are required for a particular purpose or where it is obvious that goods are intended for a particular purpose, and a trader supplies them to meet that requirement, the goods should be fit for that specified purpose

Remedy for breach

If the trader breaches the contract, by supplying services or goods that fail to meet the required standards, the consumer can expect the trader to put things right.

The consumer is entitled to reject goods that do not meet the required standard unless he has affirmed the contract. Affirmation is defined below.

When a consumer rejects goods he can claim compensation for his losses. This will normally amount to the cost of obtaining replacement goods, along with any foreseeable losses that have been incurred. These losses might include the cost of removing defective goods and installing the replacements, and any property damage or personal injury caused by the goods. The consumer is also released from all his outstanding obligations under the contract - for example, any outstanding payments for the service.

If the service fails to meet the required standard, the consumer can choose to terminate the contract and then claim the cost of having another trader carry out remedial and/or completion work.

In the first instance however, the trader will usually offer to carry out further work to rectify any defects, and to repair or replace any defective goods. In most cases, this will resolve the problem to the satisfaction of both parties.

What is affirmation?

When affirmation takes place, the consumer loses the right to reject goods, although he may still retain a right to compensation or some other remedy.

Affirmation takes place when the consumer, knowing that there is a breach of contract, chooses to keep the goods and not to reject them. Affirmation can occur if the consumer becomes aware of a breach but fails to complain within a reasonable time.

Remedies where the consumer cannot reject the goods

When there is a breach of contract, but the consumer has lost his right to reject goods, he will be entitled to claim compensation from the trader. The same rules apply if the consumer is entitled to reject the goods but chooses not to do so. The amount of compensation will be the sum required to put right the breach. Usually, this will be the cost of repair or replacement - or a part refund plus compensation for any other losses suffered.

If a repair or replacement would put the breach right and the trader offers this, the consumer would normally be expected to accept it.

Additional remedies for consumers

Under Part 1B of the Supply of Goods and Services Act 1982, there are additional remedies for consumers where goods are supplied as part of a contract for the supply of services. In these circumstances, the consumer may be able to demand any of the following:

- a repair or replacement
- a price reduction to an appropriate amount taking the defect into account
- rescission of the contract (that is, return of the goods, part or full refund, and compensation, if appropriate)

If the consumer chooses one of these remedies, and if the defect is discovered within six months of delivery to the consumer, it is automatically assumed that the fault was there at the time of delivery unless the trader can prove otherwise. If more than six months have passed, the consumer has to prove the defect was there at the time of delivery (even if it was not apparent at that time).

If the consumer chooses the option of a repair or replacement, the trader must do this within a reasonable

time and without significant inconvenience to the consumer. The trader must also pay all the relevant costs - for example, labour, postage, etc.

Where a consumer demands a repair or replacement, but that remedy would be disproportionate, then the trader would be entitled to offer him one of the other remedies. For example, if a consumer demands a repair, but it would be cheaper to replace the item than to repair it, the trader could offer a replacement. The consumer can only require a price reduction or rescission where the cost of repair or replacement is disproportionate or where repair/replacement is not provided within a reasonable time. (Rescission unwinds the contract, so the consumer returns the goods and the trader makes a refund).

Exceptions - when the consumer cannot make a claim

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.

If a consumer asks a trader to provide a service but to use unsuitable materials or methods (for example, if a consumer asks a decorator to use some left-over interior paint for an outdoor painting job), and if the trader agrees to this, the consumer may well be disappointed with the outcome. The trader can minimise the risk of a complaint by recording, in writing, that the consumer has been advised that the materials or methods are unsuitable and that he has asked the trader to go ahead despite this advice.

In relation to goods supplied under a service contract, a consumer cannot claim for defects that are brought to his attention before the supply, or if the consumer examines the goods before supply and any defects should have been obvious.

A consumer cannot claim for damage he causes or if he simply changes his mind about wanting the goods or services.

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

Dealing with complaints

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 emails and letters of complaint and that they must return phone calls. Where a complaint appears to be valid, the trader should put things right promptly. If the trader disputes liability, they should give a clear explanation of their reasons.

Time limits for court action

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.

For a breach of contract, a consumer cannot normally bring a claim to court more than six years after the breach (for example, this would be the date of installation if sealed window units failed). However, if you have offered a guarantee on the work then you have to honour the guarantee (and if you fail to do so, the consumer can make a claim up to six years from that date instead).

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. Where a trader has been negligent, longer time limits sometimes apply.

Other rules affecting consumer contracts

Consumer contracts (information, cancellation and additional charges) regulations 2013

These Regulations provide consumers with a 14-day cooling-off period for most 'distance contracts' (those made via the internet etc) and 'off-premises contracts' (those made, for example, in a consumer's home). They also require certain information to be given to consumers, both for off-premises contracts and where consumers make an agreement on a trader's business premises. Traders cannot make hidden charges, and additional charges can only be made with the consumer's express agreement.

For more information see:

- ['Consumer contracts - distance sales'](#)
- ['Consumer contracts - off-premises sales'](#)
- ['Consumer contracts - on-premises sales'](#)

Negligence

Where a trader supplies a service, they owe a duty of care to the consumer and to others who might be affected by their work. If their work is substandard, the duty of care may be breached and the person who suffers a loss may be able to make a claim. This applies even where there is no direct contract between the parties - for example, where the claim is made by one of the consumer's friends or relatives, or where the trader is a subcontractor who is not working directly for the consumer. The duty of care is similar to the standard of 'reasonable care and skill' (see 'The implied terms' above), and it applies to the standard of work rather than guaranteeing a particular outcome.

Misrepresentation

A misrepresentation is a false statement of fact made by a person or their agent that induces someone else to make a contract with them.

Dependent upon whether the misrepresentation was made fraudulently, negligently or innocently, the party who has relied on the misrepresentation will be entitled to a remedy that may include rescission, refund and/or compensation.

Consumer protection from unfair trading regulations 2008

Since 1 October 2014, these Regulations have provided an additional and alternative right of redress for consumers. Where a trader has used misleading or aggressive selling practices, the consumer may be entitled to claim compensation and/or a reduction in price, or to cancel the contract completely.

The Department for Business, Innovation and Skills (BIS) has produced guidance on consumers' right to redress under the Regulations: [Misleading and aggressive commercial practices - New private rights for consumers](#).

Unfair contract terms act 1977

This legislation restricts a trader's ability to use contract terms to limit their legal and contractual liabilities. Traders cannot limit or exclude liability for death or personal injury arising from their negligence.

In consumer contracts, traders cannot limit or exclude liability for breaches of the implied terms as to description, quality and fitness for purpose of goods. In addition, any attempt to mislead the consumer about his rights is an offence under the Consumer Protection from Unfair Trading Regulations 2008. (These Regulations cover traders' duties towards consumers in general - see '[Consumer protection from unfair trading](#)'.)

Unfair terms in consumer contracts regulations 1999

These Regulations, which only apply to consumer contracts, state that a consumer is not bound by a standard term in a contract with a trader if that term is unfair. Examples of unfair terms would include the following:

- penalty clauses that allow the trader to claim more than their actual losses when a consumer breaches the contract
- terms that are unclear or unintelligible
- terms that exclude liability for breach of contract
- terms that deny consumers their legal rights if they do not comply with formalities as to the time or manner of making the claim (for example, making a complaint in writing by recorded delivery)
- giving the trader the right of final decision in a dispute

The Regulations do not apply to terms negotiated with individual consumers, nor do they apply to the core subject matter of the contract (such as the description of the goods/services and the price).

Consumer protection act 1987 (part 1)

This legislation allows a person to claim compensation if he is injured by a defective product. Depending on the circumstances, a claim might be made against anyone in the supply chain from manufacturer / importer to retailer.

Compensation can also be claimed under this Act for damage to personal property (but not damage to business property).

For more information, see '[Unsafe goods - liability](#)'.

Contracts (rights of third parties) act 1999

This legislation gives rights to anyone who was intended to benefit from the transaction. For example, if someone buys a service as a gift for a friend and the service is done to a poor standard, either the recipient or the buyer of the gift can take action for breach of contract (as long as it was made clear that the service was a gift). Traders can use contract terms to exclude the rights of third parties, but in practice it will often be simpler (and provide a better customer experience) for the trader to deal directly with the recipient of a gift.

The trader's identity

The consumer needs to know, or to be able to find out, who he is dealing with. A trader's identity and address must be displayed at their place of business, on key business documents and on websites. This information must also be made available to consumers before a contract is made and whenever a consumer requests it. See '[Company & business names](#)'.

If a trader fails to disclose that they are a limited company and there is then a breach of contract, the consumer may be able to claim against the directors of the business as individuals. If a trader fails to disclose that they are acting as an agent for someone else, then the consumer may be able to make any claim directly against that trader.

Uncollected goods

Occasionally, consumers fail to collect their goods after having them repaired or forget to pick up dry-cleaning.

Section 12 of the Torts (Interference with Goods) Act 1977 sets out what action a trader should take to get the goods collected and makes it clear what they can do if they are not.

It is sufficient to have a notice, which is easily visible to consumers, stating how long the trader will keep goods after repair and an intention to dispose of them after this date. The time period would need to be reasonable.

If no notice is displayed, the trader may need to send a letter by recorded delivery to the consumer specifying that the goods are ready for collection and from where. The letter should also state the amount owing. Additional notification must also be given if the trader intends to sell or dispose of the goods after a certain date and how additional proceeds from the sale can be collected.

Common questions

Q. If I provide a service to a consumer, do I have to provide a guarantee?

A. There is no legal requirement to provide a written guarantee for the service or for any goods supplied. However, you cannot take away the consumer's legal rights, which may apply even if a defect comes to light some time after the work was done or the goods were supplied. If you do provide a guarantee, its terms should add to the consumer's legal rights and they should be stated clearly.

Q. I carry out home maintenance and improvement work and I offer a 10-year guarantee. Does the guarantee have to be transferable to subsequent owners of the property?

A. Part of the value in guarantees lies in the consumer being able to assign them to subsequent owners. A term which makes the guarantee non-transferable is likely to be in breach of the Unfair Terms in Consumer Contracts Regulations 1999.

Q. If I provide a service and something goes wrong, does the consumer have to give me a chance to put it right?

A. If the consumer goes directly to someone else, he is running the risk that he will not be able to claim the full cost of remedial work from you. It is therefore advisable, in most cases, for the consumer to give the original trader a chance to put their own work right. However, you could not expect a consumer to give this chance to a trader whose work is so bad that any reasonable consumer would have lost faith in their ability to do the work correctly.

Q. Someone asks a trader for a quotation - how is this different to an estimate?

A. A quotation is normally a fixed price whilst an estimate is generally a rough guess of what the work would cost.

Q. While a trader is doing some work for a consumer, the consumer asks for some changes to the job. If the trader has given a quotation, can the price now be changed?

A. Yes, the consumer and trader can change the contract by agreement. Disputes often arise where there are misunderstandings about what has been agreed. For this reason it is advisable to record all changes in writing.

Q. A consumer made a booking for a beauty treatment but did not turn up. Can the trader charge for the appointment?

A. The trader can only charge to cover their losses. If they were able to book another customer in, so that the appointment time was not wasted, then there may be no loss. If the time was wasted, then a charge can be made, but the trader should take account of any savings made (for example, the cost of materials that were not used).

Q. A consumer complains that a service was done to a poor standard, but the trader says that the standard is acceptable. What should they do?

A. To settle a disagreement about the standard of work, it may be necessary to seek the opinion of an independent third party. This could be a surveyor or assessor, or another professional or expert in the service in question. Where an independent expert is to be used the consumer and trader should ideally both agree to this in writing.

Q. A trader estimates that a conservatory will be installed in four to six weeks. After six weeks, the work is not finished. Does the consumer have the right to cancel the contract?

A. If the trader has given an estimated completion date, rather than a fixed commitment, then the work has to be done within a reasonable time. The consumer should give the trader a final deadline for completion, after which they will be able to treat any further delay as breach of contract and cancel the contract.

Selling goods without services

If your business also sells goods without any service provision please see ['The sale & supply of goods - before 1 October 2015'](#).

Key legislation

[Torts \(Interference with Goods\) Act 1977](#)

[Unfair Contract Terms Act 1977](#)

[Supply of Goods and Services Act 1982](#)

[Consumer Protection Act 1987](#)

[Contracts \(Rights of Third Parties\) Act 1999](#)

[Unfair Terms in Consumer Contracts Regulations 1999](#)

[Consumer Protection from Unfair Trading Regulations 2008](#)

[Provision of Services Regulations 2009](#)

[Consumer Contracts \(Information, Cancellation and Additional Charges\) Regulations 2013](#)

[Consumer Protection \(Amendment\) Regulations 2014](#)

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Please note

This information is intended for guidance; only the courts can give an authoritative interpretation of the law.

The guide's 'Key legislation' links may only show the original version of the legislation, although some amending legislation is linked to separately where it is directly related to the content of a guide. Information on amendments to UK legislation can be found on each link's 'More Resources' tab; amendments to EU legislation are usually incorporated into the text.



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