



Act to keep your

As high-street and online shops struggle through the recession, make sure you don't lose money if they go out of business

Many Which? members could lose money after ordering goods from struggling firms, our new survey suggests.

We asked 1,932 members of our on-line panel whether they'd experienced problems with failing stores. Fortunately, just 4% had ordered goods before a company went into administration. Worryingly, 85% of these people have not had their goods and less than half of these people have had their money back.

This is an uncertain time for shops and customers. Some brands, such as Whittard of Chelsea, will continue under new owners, but others, such as The Pier and Wrapit.co.uk, haven't been so lucky. When shops go out of business, you could be left without goods ordered and the money you spent buying them.

Will you get your money back?

When a company is in trouble it may appoint an administrator to try to rescue it. If it can't be saved, the administrators will try to get the best deal for creditors – people or groups it owes money to.

It's unlikely the company will be able to pay back all the money it owes. It must by law pay 'secured' creditors, such as a mortgage lender, and 'preferential' creditors, which includes HM Revenue & Customs and employees, first. Money

left over will go to 'unsecured' creditors. This includes customers who have been affected, such as you.

How to claim your money back

If a company goes into administration and doesn't deliver the goods or services promised, it's breaking a contract with you. Write to the administrators, including copies of any paperwork, to claim for this as a creditor.

The company may contact you directly about this process, including details of who the administrators are, or post the information on its website.

You can find out who the administrators are from the Companies House website (www.companieshouse.gov.uk) or by phone (0303 123 4500).

If the shop is part of a larger group, you're not entitled to claim from its parent firm if the shop is a company in its own right. Check on the company's website or the Companies House site.

The problem

If you are an unsecured creditor it's unlikely you'll get back all your money by registering as a creditor and the process could take a long time. So what other choices are there?

William Wharton (right), a 36-year-old chemist, used a NatWest credit card

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Find out your rights if you have credit card problems
www.which.co.uk/creditcardrights

to pay a £500 deposit on a £12,699 used Ford Focus from online car retailer DC Cook Direct, in September 2008. He paid £8,414 by electronic bank transfer.

The car was due to be delivered to his home in Newcastle upon Tyne in October, at which point he was going to pay the balance by part-exchanging his current car. The Ford Focus was never delivered, despite William emailing and calling the firm a number of times. On 22 December, he got a letter from administrators Tenon Recovery saying that DC Cook Direct had gone into liquidation.

William knew it was unlikely he'd get his money back from the firm, so he made a claim to NatWest for the £8,914 he had paid. It has refunded the money.



William Wharton reclaimed £8,914 from NatWest



cash safe

How you paid for the goods

William made his claim under section 75 of the Consumer Credit Act 1974 and his story shows how important your method of paying for goods can be to whether you get your money back.

PAID BY CREDIT CARD

If you make a full or partial payment on your credit card for an item costing over £100 but not more than £30,000, you may be able to get your money back (or what you have to spend to get an equivalent item elsewhere) through section 75 of the Consumer Credit Act 1974. This makes your card provider equally liable for the company's breach of contract.

WHAT TO DO

Write to your card provider to make a claim. Include related paperwork and state that the provider is equally liable for your claim under section 75 of the Act. You have six years from the date of the breach of contract (ie when the seller fails to provide the goods) to make a claim. It's five years in Scotland.

If you're not happy at the end of the provider's complaints procedure, complain to the Financial Ombudsman Service (FOS) within six months of its final letter to you. You can also complain to the FOS if the provider doesn't deal with your claim within eight weeks.

If you've received only some of the goods ordered, such as parts of a new kitchen, you can make a section 75 claim for what you have to pay to get the other

items elsewhere. If the retailer arranged finance for you to pay for goods costing between £100 and £30,000, you can make a section 75 claim against the finance company.

PAID BY DEBIT CARD

If you paid using a Visa debit card, or you used a Visa or MasterCard credit card but the item cost less than £100, it may be possible to get your money back via 'chargeback'. This means the card provider can try to get your money back from the merchant on your behalf.

Contact your card provider (within 120 days) to claim and complain to the FOS if you're unhappy with the response from your provider.

OTHER WAYS OF PAYING

If you paid for goods or services by cash, cheque or a non-Visa debit card, it's unlikely you'll get your money back. It may be possible to get your goods if they're clearly identifiable as yours – in the company's warehouse with your name on, for example. If a product under warranty breaks after a shop goes bust, you may be able to claim on the warranty if it's from the manufacturer.

VOUCHERS

When you have vouchers to spend with a shop, this acts as a contract between you and the retailer, like any purchase. If the company goes bust and you can't spend them, claim as you would for any breach of contract under section 75.

Checklist

Our tips on how to protect your purchases

- Pay for goods that cost over £100 but not more than £30,000 using a credit card and you will be covered by section 75 of the Consumer Credit Act 1974.
- Make sure that the period between paying for the goods and you receiving them is as short as possible.
- If a firm goes bust and breaches contract, register as a creditor with the administrators.
- Make a chargeback claim if you paid by a Visa debit card or by a Visa or MasterCard credit card for goods under £100.
- Visit the shop or its warehouse to claim goods that are obviously yours, for example they are labelled with your name.
- It's worth noting that credit card payments through online payment system PayPal aren't covered by section 75.



WE CAN HELP YOU MAKE A CLAIM

We may be able to help you if you need to make a section 75 claim for a product you have paid for by credit card. Go to www.which.co.uk/creditcardletters to see our template letters.

