

Which? news

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Our new finance title *Make the Most of Your Money* is a no-nonsense guide designed to help you work out your financial priorities and grow your cash. Award-winning personal finance expert Nic Cicutti offers realistic solutions to overcoming tricky financial hurdles, whether it's getting rid of debt or funding a property move. You can buy your copy at the special price of £9.99 (normal price £10.99), including free p&p, by calling 01903 828557 and quoting MYMWN1109. Offer ends 30 November 2009.



■ Changes to W?LS

Which? Legal Service now offers advice by email. Which? Legal Service Plus gives members unlimited email contact with lawyers on top of the current telephone service. And W?LS lawyers can now advise you on home repossessions as well as their usual areas including consumer rights, employment and parking appeals.

To find out more, see our relaunched website at www.whichlegalservice.co.uk or call 01992 822 828.

WHICH? HOLIDAY HELPS GET THOUSANDS IN COMPENSATION

The *Which? Holiday* team guides a cruise traveller through his legal rights after holiday makers fail to see the sites

When John Gatenby and his wife Olive paid almost £12,000 (plus flights) for a cruise to India last Christmas, they didn't expect to have any complaints.

But they didn't get what was promised in the brochure.

They had chosen Noble Caledonia's Bengal Odyssey – sailing on the MS Island Sky – which was to include visits to Calcutta, Pondicherry, Visakhapatnam as well as time to explore the Maldive archipelago. But by the time they docked at Calcutta, it was dark so they saw the city in darkness and only for a few hours.

The ship didn't dock at all at Pondicherry or Viskhapatnam, and their two-day exploration of the Maldives amounted to just a few hours. Time at other ports was also cut short.

John says: 'We spent significantly more time at sea than scheduled in the itinerary.'

'This was meant to be a very special Christmas holiday. It was our first experience of India and we felt very disappointed.'

Noble Caledonia complaint

Fifty passengers were equally unhappy and asked John (a retired solicitor) to represent them in a complaint.

At first, Noble Caledonia offered each passenger a £500 refund, increasing this to £750 per passenger at a later date.

This was not acceptable to John or the other passengers so, as a *Which? Holiday* subscriber, he called our experts.



John and Olive's Indian cruise cost more than £12,000 – so they expected to see every site listed in the itinerary

John was told that he could claim a significant percentage of the cost of his cruise under the Supply of Goods and Services Act 1982 and the Package Travel Regulations 1992.

After further correspondence, John secured compensation worth just over 30% of the value of his cruise (£3,600). For the other passengers, he secured a cash sum or credits against future cruises with Noble Caledonia, amounting to compensation worth close to £100,000.

John says: 'The holiday was far short of what Noble Caledonia was contracted to provide us and so we were

content with the compensation that we received in the end.'

A spokesman for Noble Caledonia said that the itinerary was disrupted due to adverse weather and conditions, combined with difficulties organising local transport.

TAKE ACTION?

If you've experienced long holiday delays this summer, lost luggage or had a hotel changed without warning, *Which? Holiday* experts tell you about action to take at www.which.co.uk/holidayrights. To try two issues of *Which? Holiday* for just £3, call 01992 822800.

Brief case Laurie's story

Our lawyers advise a small business on court procedures

Which? legal advice can help you in business as well as in your home life, as electrical fitter Laurie Hickman discovered.

In January 2007, Laurie bought a Ford transit van for £17,398 from Evans Halshaw, Wolverhampton.

He an extra £250 plus VAT for a factory-fitted, hands-free kit for his mobile phone. Ford's website confirmed that the kit was compatible with his Nokia.

Laurie paid £8,254 in cash and the rest through a hire purchase (HP) agreement.

In June 2008, Laurie found that he couldn't get a connection when his phone was in the hands-free cradle. Nokia said that the whole system had been obsolete for some time, while Ford suggested replacing the cradle – with no effect.

Evans Halshaw then offered an alternative phone system but, as it

was worth only £70, Laurie wasn't happy and he contacted Which? Legal Service.

We explained that if he could show that the system shouldn't have developed the fault at that stage in its life, he could hold the HP company in breach of contract.

But FCE Bank PLC, which provided the HP, said that the problem was due to Laurie upgrading his phone.

After further advice from Which? Legal Service, Laurie started court action against FCE Bank for the £250 he'd paid for the hands-free kit, along with reimbursement of phone calls he'd made and earnings lost as a result of being without the phone – totalling £1,546.75.

RESULT While waiting for the court case to begin, FCE Bank's barrister offered an out-of-court settlement of £750, which Laurie accepted.



Laurie wouldn't accept a cheaper alternative phone system

YOUR RIGHTS ON GOODS ACQUIRED ON HIRE PURCHASE

■ HP responsibility

If you choose to finance goods through HP, in practice you acquire them from the HP company, not the retailer, so any problems need to be raised with the company.

■ Relevant act

In the case of HP, it's the Supply of Goods (Implied Terms) Act 1973 that applies, under which goods should be of satisfactory quality, fit for purpose and as described. If they aren't you could claim back all money paid but you

must notify the company as soon as possible after you discover the issue. If you leave it, you might only be able to claim for the cost of repair.

■ Repair costs

If you wish to keep a faulty item, you can only claim for the cost of repair (as opposed to replacement). As you're expected to keep losses to a minimum, always give the HP company the chance to fix the problem first.

■ Alternative rights

Even if there's no fault with an item acquired under HP, you can hand the goods back once 50% of the contract is paid – but you could be liable for the cost of getting it back up to a suitable condition. You don't get back money you've paid.

■ Act as a consumer

Consumers have greater legal protection than businesses as sellers can restrict the statutory rights of business purchasers. However, it's

possible to still be considered a consumer if there's no link between the goods bought and the business you're in – a computer for a plumber's accounts, for example. Consumers can't claim business losses, of course.



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You can receive unlimited phone and email advice from our professional, experienced lawyers – who are ready to provide practical advice that's tailored to your case.

No matter how small a claim – whether you have a faulty TV, cowboy builders to deal with, parking fines or

to contest a holiday from hell – we can help your case.

It costs just £39 a year for the phone service, or £85 a year for phone and email cover – so call Which? Legal Service today on **01992 822828** or go to **www.whichlegalservice.co.uk**.