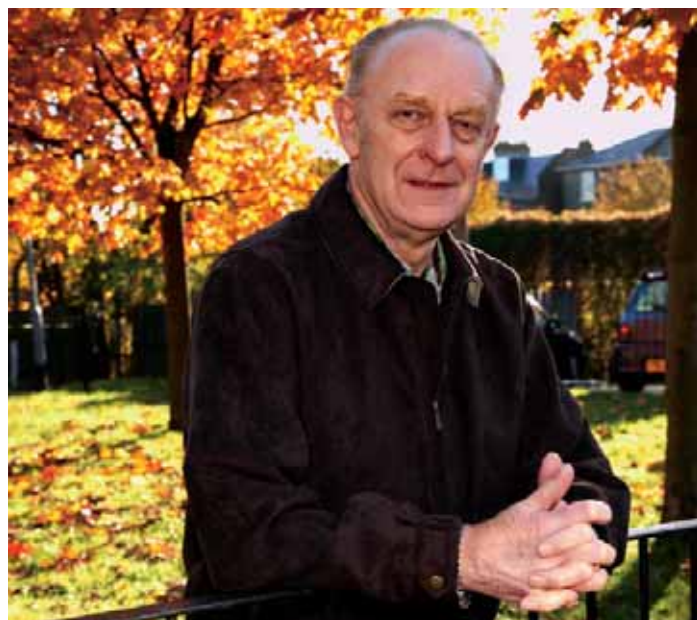


# Brief cases

Graham was awarded £598 for no sale

## Offer to sell timeshare turns into an offer to exchange instead



Graham was under the impression that his timeshare would be sold

### GRAHAM'S STORY

Graham Brown was cold called by a rep from timeshare resale company European Timeshare Owners Organisation (ETOO) with an offer that sounded foolproof. ETOO would put his timeshare up for sale for £5,000. If no buyer was found within a year, ETOO would buy it itself for the same price. All Graham had to pay was a fee of £373 to cover the marketing costs.

Graham was tempted – after all, he was guaranteed £5,000 – so he authorised ETOO to take £373 from his Capital One credit card.

A few days later he received the contract and noticed the following clause: 'ETOO guarantees an offer to dispose of your ownership within 12 months of registration'. He queried it with ETOO and was assured that it referred to the company's guarantee to buy the timeshare itself.

Graham heard nothing for two months, and then ETOO rang to let him know that Club Class Holidays had made an offer to exchange his timeshare for another holiday-ownership scheme. Graham was flummoxed. He said he wasn't

interested in exchanging, only in selling. He turned the offer down.

At the end of the 12 months, no buyer had been found, so Graham wrote to ETOO for his £5,000. It replied that the offer from Club Class Holidays had constituted the offer to dispose of ownership, and, as such, it had satisfied the guarantee and fulfilled its part of the contract. It denied all knowledge of any agreement to buy the property itself.

Astounded, Graham came to Which? Legal Service. We told him he had a claim for breach of contract and gave him advice on how to sue. We reminded him that he could bring a claim against both ETOO and Capital One, since credit card companies are jointly liable under section 75 of the Consumer Credit Act 1974.

### RESULT

**The case went to court. The judge decided ETOO hadn't secured an offer to dispose of the timeshare, but the contract didn't commit it to pay Graham £5,000, so he was awarded £598; the £373 fee, £220 for court fees and £5 travelling expenses.**

## HOW TO PROTECT YOURSELF WHEN SELLING OR BUYING A TIMESHARE

### STEP ONE

#### If you're selling

It can be difficult to sell a timeshare and the price you get will often be much lower than the one you paid. Timeshare resale organisations may be able to help but get several quotes. Check the terms thoroughly to make sure they're suitable (some companies don't deal with timeshares that work on a points scheme). Get everything in writing.

### STEP TWO

#### Where to get help

The Timeshare Consumers Association (no connection with us) gives independent help to timeshare owners and holiday-club members in Europe. It has a code of conduct for resellers that the organisations listed on its website have signed up to. It also gives tips on selling and buying safely and on spotting a scam: [www.timeshare.org.uk](http://www.timeshare.org.uk).

### STEP THREE

#### If you're buying

The Timeshare Act 1992 provides for a cooling-off period of at least 14 days provided that:

- the contract is signed by either party within the UK, or
- the contract is subject to the laws of the UK.

The cooling-off period may be shorter in other countries.

The company must give you notice of the

right to cancel a contract at any time during the cooling-off period before you sign. It is a criminal offence for a timeshare company not to do this.

In addition:

- a cancellation form must be attached to the notice setting out your cancellation rights
- the seller is not allowed to ask for money, or take money from you, during the cooling-off period.

### STEP FOUR

#### General precautions

- Never pay anything upfront. If the company is legitimate, it can take commission or fees from the final bill.
- Get the company's full trading name and a Companies House registered number. Go to [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk), or phone 0870 333 3636 for help (Monday to Friday, 8.30am to 6pm).

Two cases from the files of our Which? Legal Service consumer lawyers, plus legal advice: this month, dealing with things you didn't request



**Amy Shipton**  
**Paralegal**  
Co-ordinates our monthly 'Brief cases' feature



**Joanne Barker**  
**Senior solicitor**  
Specialises in consumer law and employment law

The Cartys' wedding meal was a letdown

## Dealing with a service that's substandard

### DENISE'S STORY

Jason and Denise Carty wanted to celebrate their wedding in style, by treating their 300 guests to an unforgettable day at a luxury venue. But the food proved such a letdown that the newly weds took the venue to court – and won £4,424.

Addington Palace in Surrey specialises in authentic Asian, European and African-Caribbean cuisine. From the brochure and the fact that it had catered for the Queen's Jubilee, the couple thought they'd be getting something extra special for their £15,000. They decided on one buffet of Chinese cuisine and one of Caribbean. They were so anxious that they asked to sample the menu beforehand but were assured there was no need.

However, on the big day, Denise and Jason thought the food was way below the standard they'd been led to expect. The chicken, noodles and rice were undercooked and the soup tasted burnt. Heartbroken, Denise contacted Which? Legal Service.

We told her she had a claim for breach of contract since, in its reception package, the venue hadn't provided its services as required by the Supply of Goods and Services Act 1982. We said she also had a claim for misrepresentation, as she and Jason had entered into the contract



**Denise's credit card company paid £4,424 in compensation**

on the strength of representations by the staff and the brochure. Denise had paid by credit card, so we advised her to claim against her card issuer as well – under the Consumer Credit Act 1974 credit card companies have joint liability if something goes wrong. When

Addington Palace refused to do anything, we advised the Cartys on how to prepare for court.

### RESULT

**The court awarded the Cartys £4,424 compensation, which the credit card company paid.**

### IF A SERVICE FALLS SHORT

#### STEP ONE

##### What the law says

Under the Supply of Goods and Services Act 1982 in England and Wales (common law in Scotland), a service must be provided:

- with reasonable care and skill, using materials of satisfactory quality and fit for their purpose (this includes food and ingredients)
- in a reasonable time if you

haven't specified a completion date, and for a reasonable price if none was agreed beforehand.

#### STEP TWO

##### What you're entitled to

If the service isn't provided to these standards, depending on the circumstances of your case and what is practical, you are entitled to compensation (as here), a replacement or repair and, in some cases, a refund.

## Legal tip

## Unsolicited items

**What to do if you receive goods, phone calls or mail you didn't ask for**

### Goods

You do not have to return unsolicited goods, so you can do what you like with them. It is an offence for senders to demand payment for them.

### Phone calls

Register free with the Telephone Preference Service (0845 070 0707; [www.tpsonline.org.uk](http://www.tpsonline.org.uk)). Companies must offer an address or free phone number so you can contact them to get your name taken off their database.

### Post

Register with the Mailing Preference Service (0845 703 4599; [www.mpsonline.org.uk](http://www.mpsonline.org.uk)) and ask for your name and address to be removed from mailing lists.

### Emails (spam)

You must give your consent before a company can send you marketing emails. Companies must also make it clear that emails are for marketing purposes and that you can opt out of future ones free. You should report breaches of these rules to the Information Commissioner's Office (01625 845700; [mail@ico.gsi.gov.uk](mailto:mail@ico.gsi.gov.uk)). The rules don't apply to spam from outside the EU.

**Legal Service**  
**which?**

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