

Brief cases

Pauline and Maurice returned the cheque when they were offered just £58

New roof felt damaged after specialist company reinstalls solar panelling

THE HICKS' STORY

Pauline and Maurice Hicks paid £3,500 for a local builder to repair part of their roof and replace all the felt lining. As he didn't feel competent to reinstall their solar panels, the couple had arranged for the firm that had installed them originally – Sunuser Ltd, of Buslingthorpe Lane, Leeds – to reinstall them once the roof was finished. This cost £558.

Soon after the panels had been put back, an electrician working in the loft saw a 15cm hole in the felt. Pauline and Maurice's builder said everything pointed to it having been caused by a blowtorch while the panels were being replaced.

The Hicks sent Sunuser photos of the damage. Three weeks later they received a cheque for £58 plus a letter suggesting they repair the hole with bitumen mastic. They

knew that repairing the felt would negate the builder's guarantee. Moreover, the firm that supplied the felt said such a repair wouldn't work. So they rang Which? Legal Service.

Our lawyers said they might have a claim for breach of contract, as it appeared Sunuser hadn't taken reasonable skill and care. We said the Hicks had to establish what work would be needed to put things right, adding that, by law, they must keep costs to a minimum. We advised against banking the cheque, as it could mean they had accepted Sunuser's offer.

Pauline and Maurice contacted their own builder plus another one. Both said they'd need to replace a stretch of lining, which would entail removing, and then re-laying, an area of tiling. They quoted £1,000 and £1,069, respectively. The Hicks sent all the details to Sunuser, together with the cheque.

They heard nothing for six weeks. Then Sunuser said it would send an independent contractor to see what work was involved. This proved to be the first of three such visits. All the contractors offered suggestions but nothing came of them. At the end of a year, realising that Sunuser

wasn't going to get the work done, the Hicks threatened court action.

RESULT

Sunuser sent a cheque for £977. It withheld £23 for an item the Hicks had refused to pay for until the dispute was settled.



Pauline and Maurice found a hole after the solar panels were replaced

CLAIMS FOR BREACH OF CONTRACT: WHAT YOU SHOULD KNOW

POINT ONE

What the law says

The Supply of Goods and Services Act 1982 states that anyone providing a service has to do so using reasonable skill and care (as well as materials of satisfactory quality). Suppliers who fail to do this are in breach of contract and are responsible for any reasonable losses you incur as a result.

POINT TWO

Where you stand

Damages in claims for breach of contract generally aim to put you in the position you would have been in had the contract not been breached. In Pauline and Maurice's case, this was not just the cost of putting on a new sheet of felt but of removing a section of the roof tiles and the damaged felt and retiling the roof afterwards.

POINT THREE

Cost constraints

Where remedial work is necessary, you have a duty to 'mitigate your losses' (keep them to a minimum), though this doesn't mean you have to cut corners or accept a solution that won't work. The best way to find out whether the amount is reasonable is to get two or three firms to cost the work. Before any repair work is done, make sure

you have evidence to prove the contract was breached. If you're getting this from another contractor, try to get someone independent rather than the person who's going to do the work. They should confirm in writing what the problem is, what caused it and what's needed to put it right. (See 'Legal tip' for more on quotes and estimates.)

POINT FOUR

Settling a claim

Don't bank any cheques you're sent if you are unhappy with the amount. Unless you're told a cheque is to settle only one part of a claim, banking it can be seen as your accepting the sum in full and final settlement of the whole claim. If money is credited to your card, write to say you haven't agreed this and you don't accept it as settlement.

Two cases from the files of our Which? Legal Service consumer lawyers, plus legal advice on everyday topics. This month: quotes and estimates



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Michael set a final date for fixing faults **A far-from-fit kitchen refit**

MICHAEL'S STORY

Kitchen and bathroom installers Quality Job Ltd did anything but that on Michael Bailey's kitchen. And when it came to sorting things out, it messed up on that, too.

Michael, who had contacted Quality Job, of Hollyfield Road South, Sutton Coldfield, on the recommendation of a friend, was quoted £1,580 for installing units and work surfaces. A few days later, he decided he wanted some tiling done and a radiator moved. This would cost an extra £1,133.

The job took three weeks, at the end of which Michael signed a note to say he was happy with the work. But as soon as he started to use his kitchen, he noticed faults. One of the worktops had been cut too short and Quality Job had plugged the gap with a one-inch piece of worktop. There was a space where two surfaces joined that let in water. Wiring for the lighting wasn't properly insulated and the sink hadn't been properly fitted or sealed. Some drawers and doors were also in the wrong place, and the hob and breakfast bar were incorrectly fixed.

Quality Job failed to resolve the problems, so Michael asked Which? Legal Service for advice. Our lawyers advised him that, under the Supply of Goods and Services Act 1982, he was within his rights to demand that



Michael had legal rights, even though he'd signed a satisfaction note

Quality Job fix the problems within a reasonable time. When it didn't, we told him to set a deadline for the work to be done. When that passed, Michael wrote again, giving another deadline. He made it clear to Quality Job that this one was final, otherwise

he would get someone else to fix the faults and make Quality Job pay.

RESULT

Quality Job finally fixed the problems – a year after it had completed the original work.

DEADLINES AND SATISFACTION NOTES

STEP ONE

Setting a deadline

Unless it is a term of the contract that work will be completed by a certain date, it has to be finished within a reasonable time. If it's not, you can set a reasonable deadline for completion. Any remedial work also has to be done in a reasonable time without causing you significant inconvenience.

STEP TWO

Satisfaction notes

Signing a note to say that you are happy with goods or work

doesn't negate your legal rights if a problem comes to light. But it could be used as evidence to suggest the problem was due to something you did later.

STEP THREE

Check first, sign later

If you're asked to sign a delivery or satisfaction note, don't sign to say the goods or work are OK until you've checked thoroughly. If you don't have time to check but the driver or supplier insists on a signature, sign – but add a note that you haven't inspected the goods/work.

Legal tip

Quotes and estimates

How to protect yourself

What's the difference?

It's often assumed a quote is a guaranteed maximum price, whereas an estimate is a rough guide. In reality, neither is defined in law.

Before work starts

- Agree a fixed price and set out exactly what work is to be done.
- Make it clear the price is fixed even if new problems come to light. There could be more to a job than meets the eye, so a contractor may be reluctant to agree to this. If so, set out under what circumstances extra work can be charged for and get the contractor to agree the cost with you beforehand.
- Get everything in writing – even though oral contracts are binding, it's far safer. This includes the agreement covering the work to be done as well as details and cost of additional work that you and the contractor later agree. For bigger jobs, consider drawing up a more formal contract.
- Make sure everything is signed by both you and the contractor at all stages.

When you get the bill

If no price was agreed and you feel you've been overcharged, find out the going rate and pay only what is reasonable. The contractor must justify the extra charge. If you can't resolve the matter, you may have to go to court.