

# Brief cases

Hearing aids didn't make any difference

## Company debits £400 for goods that were returned

### MIKE'S STORY

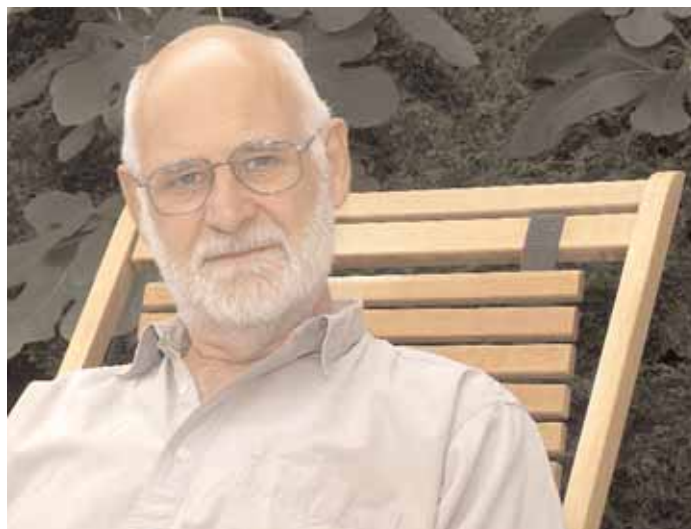
In February this year, Mike Lake sent off an application for a 30-day free trial of hearing aids from Manchester-based Hearing Health Ltd. When the company contacted him to arrange a hearing test by one of its reps, Mike explained that he had a high-tone hearing impairment.

The rep called and carried out a hearing test. She said the aids cost £1,995 and asked for Mike's bank details for a 'potential' deposit of £400. This would be debited at the end of the trial period, provided Mike decided to keep the aids. He was a bit concerned about having to give his bank details so early on but, knowing the trial was free and his £400 was safe, he decided to sign up. The rep left, leaving no

paperwork, and an eager Mike set about trying out his new aids.

To his great dismay, they made no difference. He tested them in one ear at a time, in both ears together, and at varying volumes and distances. He even changed the batteries – all to no avail: the aids were unsuitable for his type of impairment. He told Hearing Health he wanted to return them.

A rep arrived a few days later, grabbed the box of hearing aids and left, saying head office would be in touch about the return of his money 'less 12.5 per cent for professional services'. It was the first Mike had heard about any such charge and assumed it would be 12.5 per cent of the deposit. So he was surprised when, nine days later, £400 had been deducted from his debit card.



Mike stuck out for a full refund and wouldn't accept a credit note

He asked Hearing Health to explain. Three weeks passed and then he received a letter with a cheque for £150 and a credit note for £200. Mike sent them back, saying he wanted a full refund and wouldn't take a credit note. When he got no reply, he contacted Which? Legal Service. We told him he was within his rights to make this request.

Hearing Health refused Mike's request, but as a gesture of goodwill said it would reduce the amount it

was withholding for professional services to 6.25 per cent. But the 6.25 per cent was of the total order, not the deposit – meaning it would keep £125, not £25. Mike said no. When no other acceptable offers appeared, we advised him how to proceed with a small claims action.

### RESULT

**Hearing Health paid Mike the full £400, plus the £50 court fee, before the case was heard.**

## WHAT TO WATCH OUT FOR WHEN SIGNING UP TO FREE TRIALS

### STEP ONE

#### Read the small print

As with any written agreement, always read the terms and conditions before signing. Although you may be able to claim for misrepresentation, it's best to cover yourself by making sure the contract tallies with what you were told. If a company tries to get away without leaving relevant paperwork, ask for a copy of the final agreement.

### STEP TWO

#### Protect yourself

Consider paying any 'potential' deposit by credit card. That way, you get the added protection offered by section 75 of the Consumer Credit Act 1974: you can claim against the card issuer provided the goods cost more than £100 but less than £30,000 and you've paid no more than £25,000 on your credit card.

### STEP THREE

#### Act quickly

When you have goods on a free trial, the trial period begins from the day you receive the goods, not the day you first try them out. In other words, try out the product to assess its suitability and so on as soon as you get it. If the product is unsuitable, take action as soon as possible – and certainly within the free testing period.

### STEP FOUR

#### If you're not happy

Let the company know (preferably in writing, so that you have evidence) that you're dissatisfied and intend to return the goods. If the company specifies a method of returning the goods (by courier, for example), you should use it. If it has no preference, return them by recorded delivery. You may have to cover the cost of returning goods.

### STEP FIVE

#### If a company refuses to act

Check whether the company belongs to an adjudication scheme or association you can complain to. If it doesn't, you may have to consider going to court. If you paid any deposit by credit card, notify the card issuer of any potential breach and of the possibility that you'll take action against it also.

Two cases from the files of our Which? Legal Service consumer lawyers, plus topical legal advice: this month, your rights when arranging finance



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## Janet thought £200 was unreasonable

# Challenging a parking fine

### JANET'S STORY

When the London Borough of Lambeth landed Janet Watson with a £200 fine after just 22 minutes, she appealed. Her first attempt failed but, with the help of Which? Legal Service, she fought on and got her money back.

Janet had driven down from Derbyshire to attend some meetings and parked her Toyota Avensis in a local authority pay-and-display bay. She put £5 in the meter, thinking this would be sufficient, but unfortunately her meetings overran.

When she returned to the bay, her car had gone. A shopkeeper told her it had been towed away. There was no information about how to get it back but with help from a local

### WHAT TO DO IF YOU WANT TO APPEAL

#### STEP ONE Pay or appeal

If you get a ticket, you either need to pay it or make your representations to the council in writing within 14 days. If your car's clamped or removed, you have to pay to get it back, so pay under protest and then appeal in writing within 28 days. State your case clearly and include any evidence. There are six statutory grounds for appealing. If you don't meet any, it might still be worth appealing, as councils can use their discretion and cancel a release fee.

#### STEP TWO If you fail at this stage

You'll get a notice of rejection of representations explaining why your appeal was rejected. You should also get a notice of appeal, which gives details of how to take your case further.

#### STEP THREE Adjudication

You can refer your case to the National Parking Adjudication scheme. Adjudication is free, but costs can be awarded against you if the adjudicators think you have wasted time with a vexatious appeal.

internet café, she managed to track it down to a car pound. When she got there, she discovered that a penalty notice had been put on it 12 minutes after the meter had run out and that it had been towed away ten minutes later. It would cost

her £200 to get it released. She was astounded at the amount but paid under protest.

Then Janet remembered reading in a *Which?* article on parking (November 2006, p10) that it was possible to appeal against a fine. She decided to try.

None of the grounds of appeal applied, so Janet complained about 'excessive abuse of local authority powers and an unreasonable fine of £200 for just 22 minutes'. Her first appeal was rejected, so Janet came to Which? Legal Service to see what advice our lawyers could offer. We encouraged her not to give up and helped her prepare for the next step – referring her case to the independent parking adjudicators.

#### RESULT

**Lambeth Council decided not to contest the appeal and Janet received a full refund.**



Janet fought on after her appeal against a £200 fine was rejected

## Legal tip

# Arranging finance

### Your rights explained

#### Credit agreements

Most credit agreements for £25,000 or less are covered by the Consumer Credit Act 1974 and are called regulated agreements. Where this is the case:

- the agreement must be in writing and signed by you and the creditor. You're entitled to a copy

- it must contain certain information – the amount borrowed, the length of the agreement, the amount and frequency of payments, details of any cancellation rights, and total charge for credit plus the annual percentage rate (APR).

You usually own the goods straight away and if something goes wrong with them, you can claim against the seller and the finance company. However, this isn't true of all credit agreements, notably hire purchase.

#### Hire purchase (HP)

HP differs in that you own the goods only when you've paid the final instalment, so you can't sell them until the finance is paid off. Once you've paid 50 per cent of the total, you can hand the goods back and not pay any more, but you must first make up any arrears and you could be liable for the cost of putting right any neglect or damage. Any claim is against the HP company.

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