



Brief cases

Cases from the files of our consumer lawyers at Which? Legal Service, plus general legal tips

Contract regulations help gain a refund

Advertised features missing from car

ANTHONY'S STORY

In September 2007, Anthony Scargill decided to change his Peugeot 307 Turbo Diesel for a newer, bigger version, and considered a 307 SW.

Anthony, who lives in Chester, looked at PeugeotDirect.com, where he spotted the ideal match with all the features he wanted, at the right price, at Essex-based dealership Waters Retail Ltd. Two days later, Anthony and his wife travelled all the way to Waters to look at the high-spec 2006 307 SW.

They had a quick look at the car and everything seemed fine, but they didn't check that every feature was present, as they assumed that the advertisement had been accurate. What's more, the salesman asked Anthony if he was happy to forgo the run-through and complete the

deal – as he could probably figure out how everything worked because he owned a similar model. Anthony agreed and paid Waters the £12,480 asking price minus £6,100 for his part exchange.

On the motorway heading home, Anthony decided to try out the cruise control and was shocked to find that it wasn't fitted, despite it clearly being advertised as a feature.

The nasty surprises continued: Anthony reversed at a service station, and realised that the advertised reversing sensors were missing. He then discovered that the advertised alarm wasn't fitted, either.

With three key features missing, Anthony contacted Waters. It pointed to a disclaimer on its website saying that it couldn't guarantee a car would match descriptions exactly. It added that it was then prepared to fit the parking sensors only as a goodwill gesture.



Anthony has now found a Peugeot with all the features that he wants

Anthony was not satisfied, so he contacted us. Our lawyers told him that the Sale of Goods Act says that a product has to be as described, and explained that any term of the contract that tried to take away his legal rights to have the car as described could be challenged as unfair. Also, as Anthony said that he wanted to reject the car within days

of getting it, we confirmed that he should get his money back.

Armed with our advice, Anthony then got back in touch with the Peugeot dealership.

RESULT Waters agreed to give Anthony his old car back and refund him the £6,380 that he'd paid for the newer model.

WHEN PRODUCTS DON'T MATCH THEIR DESCRIPTIONS

1 Act quickly

The Sale of Goods Act says that goods must be of satisfactory quality, fit for purpose and as described. If they're not, and you act within a reasonable time, you can reject the goods and get your money back. What is a reasonable time depends on the goods; as a general rule, you'll have around three or four weeks to reject them if you're unhappy.

2 Contract terms

The Unfair Contract Terms Act says that certain consumers' rights under the Sale of Goods Act – rights to have goods that are as described, fit for purpose and of satisfactory quality – can't be taken away by a trader's terms and conditions.

So the trader can't rely on such terms – but the rest of the contract can stay as it is.

3 Buying online

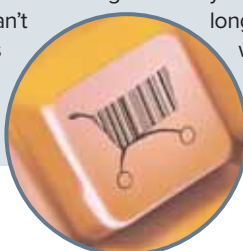
If you buy goods online, the Consumer Protection (Distance Selling) Regulations give you a cooling-off period – from the moment you place the order to seven working days after the day you receive the goods – if you no

longer want what you have ordered. However,

there are certain types of item that you can't return (see 'Legal tip', far right). Also, if, like Anthony, you start off looking at a website but then visit a trader's premises and confirm a deal in person, this isn't classed as buying at a distance and you can't then just change your mind.

4 Getting new features

You don't have to reject a product that isn't as described; if missing features can be added retrospectively, you could ask the trader to do this. If it refuses, get a quote from elsewhere and send it to the trader, warning that if it continues to refuse, you'll instruct another firm to carry out the work and you'll send it the bill.



42,000
member queries dealt
with in 2007
WHICH? LEGAL SERVICE

Legal service success

Has advice from Which? Legal Service helped you pursue a claim? The team would love to hear from you. Email wls@which.co.uk, call 0800 252100 or write to WLS, PO Box 44, Hertford X, SG14 1SH.

Reporting a car fault in good time leads to successful court action

Garage fails to honour Rover warranty

WARRANTIES: YOUR RIGHTS

1 Who's liable?

When you buy from a partnership, the partners are personally liable if goods are problematic and you could take action against either or both partners for breach of contract.

2 Reporting problems

As long as you report a fault before a warranty expires, the claim should be met. If the warranty provider refuses to fix the fault that was reported, you're perfectly entitled to claim the cost of fixing from it.

3 Other options

Regardless of whether the warranty has expired, the seller will be liable under the Sale of Goods Act if a product is shown to be not 'of satisfactory quality'.

4 Getting work done

If a trader won't put problems right or is taking more than 'a reasonable time', send a recorded delivery letter giving a reasonable time for completing the work. Warn that if the work isn't done, you'll be forced to get someone new to carry out the work, and you'll claim the cost from the original trader.

MURIEL'S STORY

In October 2006, Muriel Townson bought a Rover from a partnership called West Shore Cars for £6,495.

The car, from the Old Colwyn-based business, had just 27,100 miles on the clock, and it came with a three-month 3,000-mile warranty.

Within seven weeks, the car cut out four times – once while Muriel was on a roundabout and the steering wheel locked – but thankfully no accidents occurred.

As the warranty had not expired, Muriel took the Rover back to West Shore. In December, the car was booked in, only for Muriel to tell the diagnostic machine wasn't working. In January, the car was booked in again, and she was told there was nothing wrong with it.

The car cut out twice more. First, West Shore said it couldn't help as the 'boss' was on holiday. A week later, Muriel was told again that nobody was available to help.

Thinking that she had lost her claim as the warranty had expired, Muriel took the car to a Rover dealership, which diagnosed a faulty microchip and fixed it for £415.22.

Not knowing how to get her money back, Muriel called Which? Legal Service. We advised her to send West Shore a final letter, giving it the chance to pay the £415 or face court action. West Shore didn't pay, so we guided Muriel through all stages of the court process.

RESULT The small claims court judge ordered West Shore Cars to pay Muriel £415.22, along with her court fee of £50.



Muriel's court papers order a refund on her car that kept cutting out

Legal tip

Presents

If you're planning to give on Valentine's Day, remember that it's not so easy to return an unwanted token of love

■ **Ordering goods** It may be easier to order from home, but rules on refunds can be tight on some products. The Consumer Protection (Distance Selling) Regulations that allow you to change your mind about many goods bought online, by phone or mail, don't apply to perishable products, such as bouquets. However, you may be able to return sealed, longer-life items like wine or chocolates. Also, personalised goods, such as engraved jewellery, can't be returned. There are, of course, goods that 'by their nature cannot be returned', such as earrings or lingerie, so ask when buying – and this may also apply on the high street.

■ **Returns policies** When shopping on the high street, check each store's returns policy – as there's no automatic right to take back an unwanted or ill-fitting gift.

■ **Faulty goods** Of course, with any items that are faulty, not as described or unfit for purpose, you can – depending on the circumstances – ask for a refund, replacement or a repair.

Legal Service
which?

Half-price offer

Which? Legal Service is a unique service that offers

anyone in your household unlimited access to our team of top UK consumer lawyers. Join now and get six months for the

price of three. You pay just £9.75 for six months. Visit www.which.co.uk/legalservice or call free on 0800 252 100.