

Brief cases

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

Problematic computer causes months of frustration for a student

Animator's dream machine is a nightmare

MARK'S STORY

Needing a powerful and versatile computer for his animation degree, Mark Whitcombe scoured the internet for exactly the right machine.

He picked a laptop that seemed ideal from the Xtreme range sold by rockdirect.com. It cost £2,435.78.

At first, Mark created artwork on his new machine without problems. As he likes to listen to music while working, he tried to do so through the laptop's headphone socket, but found that certain sounds were unclear. He sent the laptop to Rock to be fixed, but was told nothing could be done. While finding this irritating, he decided he could live with the sound as it was.

Then, within three months, Mark started to hear a warning sound when the laptop was switched on, while an on-screen message of 'motherboard failure' would sometimes appear. After a while, the machine would have trouble starting

up. It was sent back for repairs, and again there were problems.

First, the laptop was returned without its fitted dust covers, and requests for more were ignored. Then, the warning sound started again and the laptop also had problems processing tasks. Mark

sent the laptop back for yet another repair, and there were yet more problems on its return.

This time, the machine was well wrapped on arrival but it came without its original packaging – even though Rock recommends that this is used, saying it's not

responsible for damage in transit due to incorrect packaging.

Mark then installed new animation software and had problems with distorted graphics. He filmed these and emailed the clip and an explanation to Rock. After he chased the company to respond, it asked for further details, but Mark was at a loss as to what else he could add.

As Mark's father, Clive, is a member of Which? Legal Service, and Mark lives at home, he was able to take advice from us.

We told Mark that the laptop had to be of satisfactory quality and fit for purpose under the Sale of Goods Act, and that problems had to be fixed within a reasonable time without causing the buyer significant inconvenience.

Mark explained this to Rock, but when it didn't respond we advised Mark to start court action.



Mark's refund paid for this Toshiba laptop that's working fine

RESULT When Rock received Mark's claim form, it offered him a full refund.

LEGAL STEPS OVER FAULTY PRODUCTS

1 Goods legislation

The law allows you to reject goods that aren't of satisfactory quality within a reasonable time, usually three to four weeks. You could ask for a repair or replacement instead, but the seller can often choose which, and must repair or replace within a reasonable time without significant inconvenience. If it does not, ask for a discount or a refund minus a sum for usage.

Court Service →

2 Considering court

If a company is ignoring your legal rights, you can consider court action, but it must be a last resort, and a judge will expect you to have made every effort to resolve the dispute. Write to the trader, giving it the opportunity

to put the problem right and send any evidence that would help persuade it to settle. State the sum you will claim if it doesn't settle. You should also consider any alternative dispute process that's available, such as a relevant ombudsman.

3 Final warning

If the company still refuses to settle your case, you should send it a 'letter before action', giving one last chance to settle or face court action. Set a reasonable deadline for responding; 14 days is reasonable in most cases.

4 The court process

You'll need to complete a claim form, which should contain all the information that a judge needs to understand what you're claiming and why, including the problems with goods, the legal basis for your claim and how much

you've lost. The court fee you'll pay will depend on the value of your claim.



3,992

calls to our lawyers in 2007 were
about employment problems

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 01992 822828 or write to WLS, PO Box 44, Hertford X, SG14 1SH.

Bert's incorrect bill is reduced by almost £600

British Gas charge is 'shockingly' high

BERT'S STORY

Bert Simons had been a British Gas customer for many years when he received a 'shockingly high' gas bill of £649.21. But challenging the amount was more difficult than expected.

The bill covered the warm months of May to August 2007 and gas used only for central heating and hot water in his three-bedroomed home in Bicester, Oxfordshire, so Bert was keen to find out why he was being charged so much. All the homes in his road had just been fitted with new gas meters. When Bert's was put in, an engineer gave him a reading for the old meter, but this was much lower than the reading on his next bill



Bert is relieved now that his gas bill is down to its usual level

that arrived soon after. While the engineer's card said the old reading was 14,707, his bill said 17,047.

Despite having evidence of the original reading, he had to complain several times to British Gas before it sent Bert a replacement bill – but that was for the same amount of £649.21. Bert complained again and, in October, he received a final demand for the same amount.

Not knowing what to do next, Bert contacted Which? Legal

Service. We explained that he was obliged to pay only for the gas he'd used and advised him to complain to the company's senior management team. If that didn't work, he should refer the dispute to the energy watchdog Energywatch.

Bert sent a letter, detailing the change of meter and readings, to a senior manager at British Gas.

RESULT Within a week, Bert had a revised bill for £59.46.

Legal tip

Employment

You may not be aware that Which? Legal Service advises on employment issues. We're unable to report on cases due to confidentiality, but we may be able to help you with one of these issues

■ **Change of contract** We hear many complaints about employers giving just 30 days' notice to make major changes to the terms and conditions of contracts. Major changes include hours, pay and allowances. Employers aren't allowed to do this unless it says so in your original contract. If it doesn't say so, and you're forced to change, you may be able to claim unfair dismissal and claim damages, even if you begin working under the new contract – providing you submit a grievance.

■ **For any grievance**

All employers must have a minimum three-stage grievance procedure in place.

Put your grievance in writing, including all details. Your employer should hold a meeting to discuss the issues and, if you're unhappy with the outcome, you can appeal.

Each stage should take a reasonable time and you can be represented at meetings by your union or a work colleague.

CHALLENGING BILLS: YOUR RIGHTS

1 Disputed bills

When you sign up with an energy supplier, you agree to pay for each unit of energy that you use. If the supplier has undercharged you, it's entitled to charge for the difference. However, the regulator Ofgem told suppliers last year that, in certain

circumstances, they can't ask for sums that date back more than one year.

2 How to complain

If you think you've been overcharged, raise this with your supplier. It should provide details of its complaints procedure, but if you

don't get a satisfactory response, refer the dispute to Energywatch – the utilities watchdog. Go to www.energywatch.org.uk to download a complaints form.

3 If you're sent a final reminder

Tell the energy supplier

that you've referred the dispute to Energywatch, and that further action would be inappropriate before any decision is made. Also ask the supplier whether it has put an adverse reference on your credit file. If it has, tell Energywatch that you'd like this corrected.

Legal Service
which?

25% discount

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household unlimited access to our team of top UK consumer lawyers. Which? members who join now get 12 months for the

price of nine, paying just £39. Non members pay £51. Visit www.which.co.uk/legalservice or call free on 01992 882828.