



Brief cases

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

Norwich Union's offer on the value of a stolen scooter was far too low for Eddie, so he resorted to his own research

Scooter driver challenges insurer

EDDIE'S STORY

In early 2002, Eddie Owers bought a 1984 Suzuki scooter for just £495.

It was a particularly good deal, as the dealer didn't normally sell scooters but had obtained it in part exchange for a motorbike.

Eddie always kept his scooter locked up, with a steering lock as well as a security chain and cable around the front wheel. For added security, he parked it behind two cars on his driveway so the bike was boxed in.

But in July 2007, Eddie went outside his Essex home one lunchtime and was surprised to find that the scooter had been stolen. He immediately reported the theft to the police.

A week later, the police told Eddie

that a scooter that fitted his description had been found burnt out in a field in nearby Tilbury. He went to the field, where he found his scooter, which was written off.

Eddie put in a claim to his insurer, Norwich Union, but was shocked when he was offered a settlement of only £150 minus £100 excess.

Eddie turned down the offer and challenged Norwich Union to find a scooter of the same calibre for £150. He sent magazine adverts showing what he felt were comparable scooters to show that he was being offered much less than the bike was worth.

Norwich Union improved its offer, but only to £250 minus £100 excess, which Eddie turned down. The company then returned with a further offer of £350, also minus £100 excess.



Eddie has no scooter but at least he's happy with his insurance payout

Feeling that he wasn't really making progress with his claim, Eddie called Which? Legal Service for advice.

We explained that if Norwich Union wasn't prepared to give him the true value of his scooter, he could refer the dispute to the Financial Ombudsman Service

(FOS). Eddie wrote to Norwich Union stating that he'd taken advice from us about an FOS referral and gave it a final chance to settle.

RESULT Norwich Union increased its offer to £350 without deducting the excess, and Eddie was happy to accept.

STEP-BY-STEP GUIDE TO VALUING YOUR POSSESSIONS

1 What are you entitled to?

Always check your policy – for a car, motorbike or scooter you're normally entitled to the market value. You can insure on an 'agreed-value' basis, but this tends to be where depreciation is of no concern, such as with classic cars.



2 What's it worth?

Assuming that your vehicle is insured on a market-value basis, you should get what the car was worth when it was written off.

This will depend on factors such as age, mileage and expensive modifications or options that have been fitted.

What you paid isn't a factor, though. If you paid less than the market value, you should still get what it would cost to replace the vehicle.

3 Proving your case

If your insurer offers less than you expected, gather all the evidence you can to prove the vehicle's true market value.

This could be adverts from magazines, printouts from dealer's websites and car price guides. Compare like for like and bear in mind that dealers do factor in room for negotiation on advertised prices.



4 Getting your dispute resolved

Before referring a dispute to the FOS, you must exhaust the insurer's internal complaints procedures, so ask for a copy.

If you're still in dispute, ask the company for a 'letter of deadlock' so you can refer the dispute to the FOS.

You must get your dispute in to the FOS within six months of reaching deadlock but, after this, you might still be able to go court.

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calls in February about traffic, speeding and parking issues

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.

RIGHTS ON PARKING

1 Parking rights

You have no right to park on private land, but a private landowner has no right to clamp your vehicle or impose a fine if it has not given you clear warnings about its parking rules.

2 Check signs

When entering a car park always check to see what the parking restrictions are. Even if you don't agree with them, if you park there you will be bound by them.

Any organisation that gives penalties for parking on private land must show that its signs outlining restrictions are clearly visible. These signs must state what the consequences of parking will be – such as clamping or fines – if you don't abide by the restrictions.

3 Ticket appeals

If you receive a ticket from a private company you can appeal but, unlike a council ticket, you may pay under protest and then appeal.

The ticket should state why it has been issued and might include a photo.

You should also try to take photos as evidence, such as photos of the lack of signage.

If the company rejects your appeal, it can only enforce the ticket through court proceedings. You'll receive notification and have the right to submit a defence.



Richard's short walk to the dentist could have turned out costly

We help Richard overturn a parking ticket Poor signs lead to fines

RICHARD'S STORY

When Richard Barton popped into a local retail park last July to recycle printer ink cartridges in exchange for vouchers, he thought he'd save on petrol by walking the 50 yards to his dentist to cancel an appointment.

He had plenty of time to shop at Staples in Redditch and then go to the nearby dental surgery – the car park's new notices said stays could be up to '90 minutes'. The notices didn't mention that shoppers had to stay on site. When Richard returned to his car, he had a £45 parking ticket, stating that the 'vehicle owner left site'.

Having parked for less than an hour, Richard thought the UK Parking Control (UKPC) ticket was a mistake. However, in August he received an enforcement notice, with a picture of his car.

Richard wanted to challenge the

fine. With private parking tickets, you can choose to pay up and then protest – so he did this and called us.

As the notices failed to mention restrictions on where shoppers could go, we told him to write to UKPC. The letter, we said, should ask for his cheque not to be cashed or further action would be considered following our guidance. And it should mention a copy was being sent to the OFT.

But when Richard checked his bank statement, the cheque had been cashed. He called the company and asked if it had received the letter and was told it would write to him. It did so, stating that the fine had been cancelled, but there was no enclosed cheque. He called again for the refund.

RESULT Within a few weeks, Richard received a cheque for £45 and a letter of apology about the inconvenience caused.

Legal tips

Beat the hard sell

Regulations to tackle hard-sell tactics come into force this month. The Unfair Commercial Practices Directive makes it an offence to use aggressive or misleading sales techniques to get a consumer to buy goods or services. Offences include:

■ Quality claims

Displaying a trust or quality mark without having the authority to do so or falsely claiming to have signed up to a code of practice.

■ Misleading promises

Enticing consumers with a deal that isn't really available hoping to lure them in and sell them something else.

■ Inaccurate promotions

Making exaggerated claims about a product's capabilities.

■ Unfair warnings

Using scare tactics to give the impression that consumers will be at risk if they don't go ahead and buy an item.

■ Dishonest sales

'Closing-down' sales when the store isn't closing at all.

■ Pressured visits Staying for an unreasonable length of time, or ignoring a consumer's requests to leave.

We'll let you know about real cases where our members benefit from these rules.

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