



Brief cases

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

Online buy results in months of chasing firm after faults found with bathroom unit

Shower problems lead to court action

THE COLEMANS' STORY

When Gwen and Christopher Coleman bought a new steam shower and cubicle on eBay two years ago, they were delighted to discover that their £750 bid, against a recommended retail price of £2,590, was

high enough to secure a sale.

But the unit – from Whitmore Reans Plumbers Merchants in Wolverhampton – needed replacing much sooner than they expected.

Within six months, they noticed that the shower tray and part of the acrylic casing had cracked and discoloured. Meanwhile, they were

concerned about lights in the cubicle flashing on and off, which an electrician put down to a fault with the quality of the shower unit's electrics rather than how it was fitted.

Gwen contacted Whitmore Reans nine months after the cubicle was fitted. It said an engineer would visit to inspect. More than five weeks passed, so she chased the company up. It then asked Gwen to get the unit inspected – or she would have to pay travelling costs for its inspectors – so she called in a plumber.

He confirmed the problems, and Gwen sent a report to Whitmore Reans along with photographs.

Another month passed without word, so Gwen contacted Whitmore Reans once more. It responded by saying that, as the unit was outside the one-year guarantee, it wouldn't be repaired or replaced.

Gwen called Which? Legal Service for advice. We told her to inform Whitmore Reans of her rights under the Sale of Goods

Act – that the shower should be of satisfactory quality, for example – which were separate from the guarantee.

Whitmore Reans offered to supply parts at trade price, but Gwen didn't see why she should be out of pocket. She sent the plumber's report again, along with two quotes for buying and fitting a replacement shower and cubicle.

When it didn't respond, Gwen started court action against Whitmore Reans for the lower of the two estimates – £2,530.

RESULT Whitmore Reans didn't respond to the claim so the judge awarded Gwen and Christopher the £2,530 they were claiming plus a refund of their court fees of £120. But Whitmore Reans did not pay, so Gwen contacted us. We told her to get the 'judgment enforced', which the Colemans did through the courts, and a cheque soon arrived.



Christopher and Gwen had to have their judgement enforced

HOW TO GET MONEY BACK ON FAULTY GOODS

1 Online rights

When you buy from a private seller, goods must match their description. Goods bought from a business must also be of satisfactory quality and fit for purpose, and the Distance Selling Regulations add protection such as cooling-off rights. The Regulations exclude auctions, however, and, as online auction law is still developing, it's

unclear whether online auctions are true auctions and therefore exempt.

2 PayPal protection

PayPal users aren't protected by section 75 of the Consumer Credit Act 1974, so you can't get credit card payments back if there are problems. PayPal's dispute resolution process can pay up to £150 or £500, depending on the status of the seller.

3 Judgment in default

If you sue a company, it must 'acknowledge' a claim within 14 days and has 14 more to put in a defence. If it does neither, ask for a 'judgment in default'. The judge will award the sum being claimed or hold a hearing to decide how much to award. Times and procedures differ in Scotland and you would ask for a decree by default.

4 Setting a judgment aside

Sometimes there's a good reason why a company doesn't get a defence into court, and it can ask the court to 'set the judgment aside'. The company must show that there was a good reason to miss the deadline and that its defence stands a reasonable chance of succeeding if the case goes to court.

5 Enforcing a judgment

If you obtain a judgment against a trader, the court should give a deadline for payment. If the deadline is not met, you can 'enforce' a judgment. There are several ways to do this, such as getting money straight from the trader's bank or asking bailiffs to seize and sell their property.



More than 30 complaints about Anglian Home Improvements so far this year

WHICH? LEGAL SERVICE

Credit card payment enables refund

Anglian fails to fix conservatory roof

LILLIAN'S STORY

When Lillian Rudra's conservatory roof started leaking in May last year, she didn't think she'd face a catalogue of delays in trying to get it fixed.

The conservatory was 18 years old, so the guarantee had run out, but Lillian thought that the supplier, Anglian Home Improvements, was best placed to carry out the work.

She phoned Anglian on 9 May and, although it initially denied fitting the conservatory, it agreed to a visit, at a cost of £99.60.

On 25 July, a fitter said that two of the seven roof panels had cracked. Lillian asked for two quotes for either replacing the lot or just two panels. Three weeks later, a quote arrived for only the two panels. On 12 November the other quote arrived, but it was for glass rather than the polycarbonate panels that were required.

The correct quote arrived on 15 November – for £3,392.81 – which Lillian accepted and paid using her Tesco Personal Finance credit card two days later.

Anglian confirmed the order on 26 November and said an installation date would be arranged by the end of the week – but it wasn't.

When Lillian called Anglian in early December, she was told that the order had not been placed.

A week later she was told that the job had been marked urgent, but by early January Lillian was no further forward so she phoned Which? Legal Service for advice.

We explained that, under the Supply of Goods and Services Act, work should be done within a reasonable time – and, if she could show that Anglian had gone beyond that, she could hold the company in breach of contract.

We also advised that, as she'd

Legal service success

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Lillian resorted to claiming a refund from her card provider

paid by credit card, her provider would be jointly liable for the breach under section 75 of the Consumer Credit Act and could be asked to pay. Lillian decided it would be easiest to claim under section 75 so contacted Tesco.

RESULT Tesco Personal Finance credited £3,492.41 back to Lillian's account but warned that Anglian could then challenge her. It did not.

Legal tips

Holiday rights

To avoid holiday hell this summer, know your rights

Package holiday

Booking a package holiday means you're protected by the Package Travel Regulations.

If significant changes are made before you go – say the destination or dates – you should be offered a full refund, another holiday of equal or higher value, or of lower value and a refund for the difference. You may also be entitled to compensation.

The package organiser is also liable if parts of the package aren't delivered properly or at all while you are there.

The regulations allow you to transfer a booking to another person if you're unable to travel due to reasons beyond your control.

Booking independently

If you have separate contracts – for example, with an airline and hotel owner – you'll have to claim against each direct if things go wrong. There's no requirement for them to be bonded, so you're not financially protected.

If flights or rooms cost more than £100, pay by credit card – so if you have problems you might get compensation under the Consumer Credit Act.

TAKE NOTE OF RULES ON TIMES

1 Timely delivery

Where no specific time is agreed for providing a service, it must be delivered within a 'reasonable time'. What's reasonable varies, but if you're promised delivery in days and it takes weeks, it's likely that more than a reasonable time has passed. If it

has, make 'time of the essence' by setting a final deadline for delivery in writing, making it clear that if the date is not met, you'll end the contract and will want your money back.

2 Contract breaches

You have six years, or five years

in Scotland, from a breach of contract to bring a claim. With faulty goods, the date of breach will be the date you received the goods. The six- or five-year rule relates to the maximum time you have to bring a claim, not how long the goods should last.

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