

The Sale of Goods Act

A brief overview of the Sale of goods Act as amended by the Consumer Protection from Unfair Trading Regulations 2008 including responsibilities under the Supply of Goods and Services Act 1982 is provided for member's information. Further advice on these topics is available from the BWF Helpline.

Your responsibilities at the time you sell goods

Whenever you sell goods or services to a customer you have certain responsibilities.

You must make sure the goods or services 'conform to contract'. This means that they must be as you describe them - for instance, a car must be the exact model that you say it is, of the correct engine size and with the same number of previous owners as you tell the customer it has had.

By law, all descriptions, including those that are verbal, written, implied or given in an illustration, must be accurate and not misleading. Describing goods inaccurately means the customer may have a claim against you for breach of contract, and may put you in breach of the Trade Descriptions Act.

Some - but not all - requirements of the Act were repealed by the Consumer Protection from Unfair Trading Regulations 2008.

The goods or services must also be of satisfactory quality - meaning they should be safe, work properly and have no defects. Although there is more responsibility attached to the manufacturers and producers of goods or services, you could also be held liable for any damage, injury or death caused by the use of products or services you supply - see our guide on product liability.

You must also ensure the goods or services are 'fit for purpose'. This means they should be capable of doing what they are meant for. For example, in the case of a pen it should be able to write. Also, if a customer has made clear they require the pen for a specific purpose - for instance, calligraphy - and you have confirmed that it will be suitable, then it must be fit for that purpose.

Not only are these your legal responsibilities - they make sound business sense if you want to attract and retain customers.

Your responsibilities if you sell services

Whenever you sell services to a customer you have certain responsibilities.

The Supply of Goods and Services Act 1982, which applies to England, Wales and Northern Ireland, says that a person providing a service must do so with 'reasonable care and skill'. It also requires the service to be carried out within a 'reasonable time' and for no more than a 'reasonable charge' unless there was prior agreement with the customer about these matters. In Scotland, the common law has a similar effect.

The definition of the term 'reasonable' will vary, depending on the circumstances.

If you have agreed a price for your service with a customer, it is not 'reasonable' to change it without a good reason. For example, agreeing with the customer to provide additional services.

Similarly, if a defined timescale has been agreed with your customer for the delivery of services, it should not be changed without good reason and agreement with the customer.

Any goods you supply as part of delivering your service will be subject to the conditions covering goods. For example, if you are a central-heating engineer, your service would be installing a central

heating system, but you would also be responsible for the goods you install, such as pipes, radiators and boilers.

Although there is more responsibility attached to the manufacturers and producers of goods, you could also be held liable for any damage, injury or death caused by the use of services or goods you supply.

The rights of customers: goods

If you sell your customers goods that don't conform to contract - that aren't as described, are unfit for their purpose or of unsatisfactory quality - you are legally obliged to resolve the problem if they seek redress.

The Sale of Goods Act states that if customers want to reject faulty goods, they have to do so within a 'reasonable time'. A legal definition of 'reasonable' is not given though - it varies from case to case and could be just a few weeks from the date of purchase.

If a customer rejects faulty goods within this 'reasonable' period, they're entitled to ask for their money back. All customers can claim compensation at any time if they choose. If you sell to consumers - not other traders - they can ask for a repair or a replacement immediately (instead of asking for a refund) at any time until six years after purchase.

If you're dealing with a consumer, any repair or replacement you arrange must not cause them too much inconvenience. You may have to pay for other costs such as transportation. However, if a replacement is impossible and the goods cannot be repaired economically, or vice versa, then you can offer a full or partial refund.

In law you have a responsibility to your customer for up to six years from the date of purchase (in Scotland, five years from discovery of the problem). During this period, you are legally obliged to deal with any claim of breach of contract.

The rights of customers: services

Customers have a number of rights under the Supply of Goods and Services Act if they aren't satisfied with a service you have provided.

If a customer **justifiably** believes that you haven't used 'reasonable' care and skill, you must put the work right at no extra cost. Failing this, they can ask another supplier to put the work right and then claim the cost from you.

If you charge a customer more for the service than was agreed, the customer is only obliged to pay the price you quoted them. If no price was agreed they must pay you a 'reasonable' price.

If you don't complete a service by an agreed deadline, you're in breach of contract. In these circumstances the customer can claim compensation for any losses. If no time was specified in the contract, they are legally entitled to have the work done in a 'reasonable' time. What's considered to be 'reasonable' will vary depending on the circumstances.

What do I have to do if a customer complains?

If a customer complains about goods or services they've purchased from you, it's essential to establish what your responsibilities are under the Sale of Goods Act, the Supply of Goods and Services Act, or the Sale and Supply of Goods to Consumers Regulations.

Ask yourself whether the goods are not as you described them, unfit for their purpose, or of unsatisfactory quality. Ask if the services you have provided have been delivered with reasonable care and skill within a reasonable time for a reasonable charge.

If the customer does have a valid claim under one of the above conditions, then your next step depends on whether goods or services are involved and whether they are consumers or other traders.

If faulty goods are involved and the purchase was made a reasonably short time ago, you should offer a refund. Although they won't usually do so, the customer may claim compensation from you - either immediately following the sale or up to six years afterwards. If they do so and it's a reasonable claim, you can either offer to repair or replace the goods, or to provide an appropriate sum in redress.

Additional rights for consumers when they make a complaint

Customers, who are also consumers and not other traders, have additional rights. These rights last for up to six years after sale. Consumers are entitled to ask for either a repair or a replacement in addition to their right to a refund.

If they ask for a repair or replacement you should honour their request. But if it's impossible or disproportionately expensive to repair a product, you can offer a replacement instead. If neither repair nor replacement is a practical option, you can offer a partial or full refund if this would be cheaper for the business. When you're considering whether to give a full or partial refund, you can take account of the benefits the consumer has gained since they bought the goods.

If you want to dispute a claim by a consumer for a repair or replacement, remember that for the first six months it's up to you to prove that the fault was not present at the time of sale. However, after six months it's up to the consumer to prove that the goods were faulty when sold. If a consumer complains about services you have provided then you should offer a repair or appropriate compensation.

What happens if I can't resolve a complaint?

If you have tried to resolve a customer's complaint but the situation is 'deadlocked', then what happens next will depend on whether you have acted properly and on whether the customer decides to pursue the matter.

If you accept that the customer's claim was valid under the Sale of Goods Act - but are confident that you have offered the necessary refund, repair or replacement - you may have discharged your legal obligations even if the customer refuses to accept that.

However, if you're uncertain that what you have offered is sufficient, you should seek advice – call the BWF Helpline..

If a customer does decide to pursue a claim, they can use the **small claims procedure** for goods up to a maximum value of £5,000. You can choose either to defend the claim yourself or appoint someone to represent you. Larger claims can be made through civil actions in the County Court. Always try to resolve complaints if at all possible. Time spent on defending a legal claim will probably outweigh the time you'd have spent on resolving the matter amicably. Also remember that the inevitable outcome of an unresolved complaint is at least one lost customer and the potential for bad publicity.

Note: Whilst every effort has been made to ensure the accuracy of advice given, the BWF cannot accept liability for loss or damage arising from the use of the information supplied in this publication.

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