

# ***EU Consumers' Rights***

***How EU consumers' rights benefit Hampshire citizens***

Misled by a business? It's a crime



## **Europe Direct Eastleigh**

Wessex House  
Upper Market Street  
Eastleigh  
Hampshire  
SO50 9FD  
Tel: 02380 617280



# **Been misled by a Hampshire business?**

## **That's a crime!**

### Introduction

Hampshire is a great county. It has fantastic scenery, a good standard of living, large commercial centres like Basingstoke, Portsmouth, Reading, Southampton and Winchester, the beauties of the coast and the New Forest, and is also well served in terms of small and large businesses.

However, despite all these advantages, too many consumers have problems in the region from traders or businesses that treat them unfairly, or mislead them or treat them aggressively.

The aim of this publication is to inform Hampshire consumers what action they can take if they are misled by a business.

### **Misleading consumers is a crime!**

Under EU and UK law, misleading consumers is a crime, and the directors of the business can go to prison for up to two years, and/or pay a £5000 fine, if successfully prosecuted by the regulator. The company can also be prosecuted.

Therefore, legal protection is in place if you suffer as a result of:

Misleading Actions and  
Misleading omissions

This publication explains what rights you have and what you can do if a trader tries to mislead you.



## So what is a misleading action?

A commercial practice is a misleading action if:

- (a) If it contains false information and is therefore untruthful or
- (b) if it or its overall presentation in any way deceives or is likely to deceive the average consumer, even if the information is factually correct; and
- (c) It causes or is likely to cause the average consumer to take a transactional decision he would not have taken otherwise.

Misleading actions apply to pretty much any aspect of a product including

- (a) The existence or nature of the product;
- (b) The main characteristics of the product;
- (c) The extent of the trader's commitments;
- (d) The motives for the commercial practice;
- (e) The nature of the sales process;
- (f) Any statement or symbol relating to direct or indirect sponsorship or approval of the trader or the product;
- (g) The price or the manner in which the price is calculated;
- (h) The existence of a specific price advantage;
- (i) the need for a service, part, replacement or repair;
- (j) The nature, attributes and rights of the trader
- (k) The consumer's rights or the risks he may face.

Misleading actions in relation to the main characteristics of the product cover

- (a) Availability of the product;
- (b) Benefits of the product;
- (c) Risks of the product;

- (d) Execution of the product;
- (e) Composition of the product;
- (f) Accessories of the product;
- (g) After-sale customer assistance concerning the product;
- (h) The handling of complaints about the product;
- (i) the method and date of manufacture of the product;
- (j) The method and date of provision of the product;
- (k) Delivery of the product;
- (l) Fitness for purpose of the product;
- (m) Usage of the product;
- (N) Quantity of the product;
- (o) Specification of the product;
- (p) Geographical or commercial origin of the product;
- (q) Results to be expected from use of the product; and
- (r) Results and material features of tests or checks carried out on the product.

This list is pretty comprehensive, so if a Hampshire trader has misled you then they are unlikely to be able to wriggle out of putting it right.

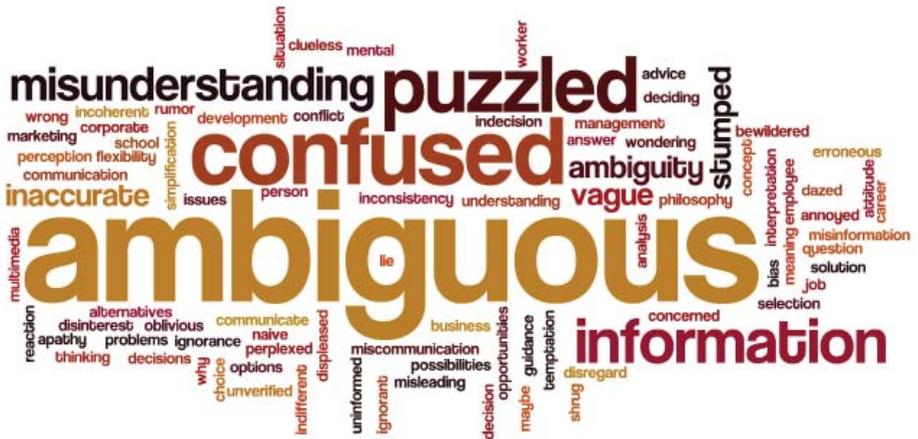
Misleading actions also cover

- a) When a trader is claiming that it is following a particular code of conduct, when in fact it is not.
- b) Any marketing of a product (including comparative advertising) which creates confusion with any products, trademarks, trade names or other distinguishing marks of a competitor.

Misleading omissions are a bit different...

A commercial practice is a misleading omission if,

- a) The commercial practice omits or hides material information that the



consumer needs in order to make an informed decision,

(b) The commercial practice provides material information in a manner which is unclear, unintelligible, ambiguous or untimely (you only find out after it would have been useful to have that information), or

(c) The commercial practice fails to identify its commercial intent, unless this is already apparent from the context,

And as a result it causes or is likely to cause the average consumer to take a transactional decision he would not have taken otherwise.

Where a commercial practice is an invitation to buy a product, the following information must be provided

(a) The main characteristics of the product

(b) The identity of the trader, such as his trading name, and the identity of any other trader on whose behalf the trader is acting;

(c) The geographical address of the trader and the geographical address of any other trader on whose behalf the trader is acting;

Invitations to buy a product

Where a commercial practice is an invitation to buy a product, the following information must be provided:

- (i) the price, including any taxes; or
- (ii) Where the nature of the product is such that the price cannot reasonably be calculated in advance, the manner in which the price is calculated;

Where appropriate, either:

- (i) all additional freight, delivery or postal charges; or
- (ii) Where such charges cannot reasonably be calculated in advance, the fact that such charges may be payable;

Where a commercial practice is an invitation to buy a product, the following information must be provided where they depart from the requirements of professional diligence.

- (i) Arrangements for payment,
- (ii) Arrangements for delivery,
- (iii) Arrangements for performance,
- (iv) Complaint handling policy;
- (v) For products and transactions involving a right of withdrawal or cancellation, the existence of such a right.

Where can you go for help if you've been misled by a trader or business in Hampshire?

## Trading Standards

Your first stop if you feel that you have been the victim of any of these practices is to contact the local Trading Standards Office as they are under a duty to act.

Hampshire Trading Standards can be contacted at:  
Montgomery House, Monarch Way, Winchester, SO22 5PW.  
Tel: 01962 833620  
Email: [tsadvice@hants.gov.uk](mailto:tsadvice@hants.gov.uk)

## Citizens Advice

Consumers in Hampshire can get further advice by contacting the Citizens Advice consumer service which provides free, confidential and impartial advice on consumer issues.

Their web address is: [www.adviceguide.org.uk](http://www.adviceguide.org.uk).

You can contact the Citizens Advice consumer helpline by calling:  
Tel 03454 04 05 06.

## Private Right of Redress

In 2014 the CPRs were updated and now, consumers can bring private civil claims against businesses that use aggressive or misleading commercial practices.

The right of private redress does not apply to financial services, real estate (apart from assured tenancies and leases relating to holiday lets) and credit agreements.

If a consumer has been the victim of a misleading or aggressive practice and decides to exercise their private right of redress, they can claim the following remedies:

- » Unwind a contract and get their money back (this ends the contract)
- » Get a discount on the price paid (this doesn't end the contract)
- » Claim damages for detriment caused

If a consumer would rather not exercise their private right of redress they can contact the Regulator, such as Trading Standards, who then has the option to bring a criminal prosecution against the trader under the Consumer Protection from Unfair Trading Regulations 2008.

Trading Standards are under a duty to act, so don't put up with being misled!



Co-funded by  
the European Union

