

EU Consumers' Rights

How EU consumers' rights benefit Hampshire citizens

Feeling pressured by salesmen?
Your rights to fair dealings



Europe Direct Eastleigh

Wessex House
Upper Market Street
Eastleigh
Hampshire
SO50 9FD
Tel: 02380 617200



Feeling pressured by Hampshire salesmen? Your rights to fair dealing

Introduction

Hampshire is a great county. It has fantastic scenery, a good standard of living, large commercial centres like Basingstoke, Portsmouth, 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 brochure is to inform Hampshire consumers of sales tactics that are illegal under European and UK law. These illegal sales tactics include

- » Marketing which plays on consumers security fears
- » Persistent and unwanted selling
- » Aggressive doorstep selling
- » Pressure selling
- » Emotional pressure

These practices and not just unfair or annoying, they are actually a criminal offence, so local people have the power to fight against these shoddy practices, as they are in the stronger position.

Background

The Unfair Commercial Practices Directive

The Unfair Commercial Practices Directive is an EU law that gives you the power to challenge businesses that try to pressure you to buy their products, using any of the techniques described below.

It was enacted into UK Law by the Consumer Protection from Unfair Trading Regulations 2008 (CPRs).

The Unfair Commercial Practices Directive gave the biggest shake up to UK consumer law for 40 years, creating very powerful cross EU consumer rights, which consumers in Hampshire can invoke to ensure that they are treated fairly, without being misled or treated aggressively.

Under the UK Regulations which implement the directive, it is a criminal offence to break any of the list of banned practices (known as the blacklist) or to treat consumers in a misleading, unfair or aggressive manner. The practices mentioned in this leaflet are all part of the blacklist of behaviours that no business engage in, and the penalty for a trader or company breaking these rules is a fine up to £5000.

In the case of a company, the directors, managers, company

secretary or similar officer of the company are also personally liable, and can be charged with a criminal offence, and face personal fines of up to £5000 and up to 2 years in prison. These are very strong sanctions, which means consumers are in an excellent position to defend themselves against traders who try to unfairly pressure them, as the law is very much on their side!

Illegal sales tactics - what are they?

Sales people have to abide by all the general rules relating to not misleading consumers: they are generally required not to provide inaccurate or misleading information or mislead by not disclosing information, or providing ambiguous information intended to deceive (see our publication “Misled by a business? It’s a crime” for more on the rules about not misleading consumers), but these are some of the specific practices that salesmen are not allowed to do:

Marketing which plays on consumers fear of crime

This is specifically outlawed. When people are selling security products they have to be accurate about the risk of crime in that particular area.



It is illegal for salespeople to exaggerate the risk of crime in particular areas simply to scare people into buying their products.

Persistent and unwanted selling



Under EU law it is illegal for people to bombard you with phone calls, emails, faxes or other remote media, for products which you don't want.

Under UK law, people or companies who do are committing a criminal offence, and can be subject to a £5000 fine and/or two years imprisonment. In this situation directors have a personal liability (which means they can go to prison), and proceedings can be issued against the company as well.

Aggressive doorstep selling

Most residents in Hampshire have probably had to deal with this at some point. Someone turns up on your doorstep and won't leave when you make it clear that you are not interested.

In this situation you should inform the person that they are committing a criminal offence. If they persist, you can call the police, as persistent or aggressive doorstep selling is a criminal offence punishable by a fine of up to £5000 and/or up to 2 years in prison.

Pressure selling

This is where the trader gives the consumer the impression that they can't leave until a contract is entered into.

This is never true. In order to be valid, a contract must be freely



entered into, and if you are under duress then it's not a valid contract.

Under EU and UK law it is a criminal offence for a trader or business to treat a consumer in this way, and as with all the practices mentioned here, it's a £5000 fine and up to a two year prison sentence if they do. Tell them that and then leave.

Emotional pressure

If a trader tries to use guilt or other emotional pressure to clinch a sale, for example, that unless you buy their product the sales person will lose their job or their business, then they are breaking the law (particularly if this is not true).



Where to get help

Trading Standards

Trading standards should be your first port of call if you are having problems with a business, as they are under a duty to enforce these regulations.

You can contact Hampshire Trading Standards at

Montgomery House
Monarch Way
Winchester
SO22 5PW

tsadvice@hants.gov.uk

Citizens Advice

If you would like further advice you can contact the Citizens Advice consumer service, which is free, confidential and impartial. Their web address is www.adviceguide.org.uk

The Citizens Advice Consumer Helpline can be contacted on:

Tel 03454 04 05 06.

They also have an online complaint form which can be accessed at <https://ssl.datamotion.com/form.aspx?co=3438&frm=citacomplainform&to=flare.fromforms>



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