

EU Consumers' Rights

How EU consumers' rights benefit Hampshire citizens

Being treated aggressively by a business?
Know your rights!



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Being treated aggressively by a business in Hampshire is a crime - know your rights!

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 consumers in Hampshire what they can do if they are treated aggressively by a local trader or business.

Under EU and UK law, treating consumers aggressively is a crime, and directors and managers 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 and fined up to £5000.

Treating consumers aggressively is not simply bad service, rudeness or bad manners.- it can actually be a criminal offence. Consumers do not have to put up with aggressive behaviour from



traders, as they are in the stronger position.

Background

The Unfair Commercial Practices Directive is an EU law that gives you the power to challenge businesses that try to treat you aggressively.

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

Under the UK Regulations, it is a criminal offence to break a list of banned practices (known as the blacklist) or to treat consumers in a misleading, unfair or aggressive manner. This leaflet is intended to clarify the types of behaviour that fall foul of these rules.

The penalties for breaches of the Directive and UK Regulations are very strong sanctions, placing consumers in a very strong position to defend themselves against traders who try to treat them aggressively, as the law is very much on their side!

Your right not to be treated aggressively

Under the CPRs it is an offence for a trader to treat a consumer aggressively.

So what constitutes “aggressively”?

A commercial practice is aggressive if:

(a) It involves the use of harassment, coercion, or undue influence, which impairs or is likely to impair the average consumer’s freedom of choice or conduct in relation to the product concerned.

(b) It thereby causes or is likely to cause he or she to take a decision in relation to the product that he would not have taken otherwise, including whether, how, and on what terms to buy the product.

Harassment, coercion or undue influence involves



(A) Its timing, location, nature or persistence;

(B) The use of threatening or abusive language or behaviour (egg swearing at consumers or being abusive or threatening).

(C) The exploitation by the trader of any specific misfortune or circumstance of such gravity as to impair the consumer's judgment, of which the trader is aware, to influence the consumer's decision with regard to the product;

(D) Any onerous or disproportionate non-contractual barrier imposed by the trader where a consumer wishes to exercise rights under the contract, including rights to terminate a contract or to switch to another product or another trader; and

(E) Any threat to take any action which cannot legally be taken.

If you feel threatened or intimidated because a trader has sworn at you, acted in an abusive way, and you have bought a product simply to make him go away, or been intimidated into relinquishing any contractual or statutory rights you might have in relation to



something you've bought, then this is a breach of your consumers rights, and the trader is committing a criminal offence.

Who do these rules apply to?

These rules apply to all businesses, and sole traders and they apply when there is a business to consumer relationship.

Large companies also come under these rules. So if a large (or small) company is treating you aggressively (and sadly a lot of them do), you should write to the company, and or directors of the company concerned. Point out that unless the aggressive treatment stops immediately that you shall be contacting the regulator, who has the power to prosecute the directors or officers of the company as well as the company itself.

Few directors are prepared to personally run the risk of going to prison simply, and be barred from being a director as an "unfit person" for treating a consumer aggressively.



Banks, insurance, and utility companies also come under these rules. So do train companies, (including the actions revenue protection officers on trains), debt collection agencies, and all other businesses.

Where can you go for help if you've been treated aggressively 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

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.

You can contact the Citizens Advice consumer helpline by calling

Tel 03454 04 05 06.

Right of Private 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.

These EU rules are powerful! And put consumers who are treated in an unfair, misleading or aggressive way in a very strong position, as few traders would be prepared to go to prison for two years for such behaviour.

So if you are being treated aggressively by a business or trader in Hampshire, then enforce your rights!



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