

# ***EU Consumers' Rights***

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

Tricked by a trader?  
Know your rights!



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# Tricked by a Hampshire trader?

## Know your rights!

### 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.

The aim of this brochure is to explain what rights Hampshire citizens have in relation to local traders who make false statements in relation to either:

- » claiming to be a member of a trust code,
- » limited offers (eg closing down sale - everything must go!),
- » prize winning scams
- » free offers, where the consumer ends up paying
- » Making false claims about winning,
- » Using decoys to trick a consumer, or pretend to be a consumer
- » Providing false market information
- » Making false claims about curative capacity

The aim of this presentation is to explain to consumers in Hampshire where you can go for help if you have been tricked by a trader

## Background

The Unfair Commercial Practices Directive is an EU law that gives you the power to challenge businesses that try to rip you off or trick you.

It was enacted into UK Law by the Consumer Protection from 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. The practices mentioned in this leaflet are part of the blacklist of behaviours that no business should do.

The punishment is a £5000 fine and/or two years in prison. This sanction applies to every illegal practice mentioned in this publication.

In the case of a company, the directors, managers, company secretary or similar officer of the company can also be personally liable. So the director of the company can be charged with a criminal offence, as well as the company itself. This is a very strong sanction, which means consumers are in a very strong position to defend themselves against traders who try to rip them off, as the law is very much on their side!

### Falsely claiming to be a member of a trust code.

Falsely claiming to be a member of a trust code involves a trader putting on their signage, advertising or letterhead or telling you that they are a member of a reputable trade body, or that they are accredited to a standard when they are not. Making such false or misleading claims is a criminal offence.

Unfortunately all too often people only check whether a trader is genuinely a member of a trust code (such as “Member of Checkatrade”) when they already have suspicions that the trader is not altogether honest. It is always worth checking any claimed accreditations before contracting with a trader, but if you have already

been tricked there are steps you can take to remedy the situation (see the last pages of this leaflet).

## False use of limited offers



This is one that you see all too frequently in shops; owners will put up signs saying “Limited offer - Today only”.

If the sale genuinely only lasts that one day that is fine, however, if the same “Sale” signage is up for longer periods, then the trader is committing a criminal offence, as the intention is to mislead consumers by rushing them into making an immediate purchase

## False prize winning

This can occur in two ways:

- a) The trader or business creates the false impression that the consumer has already won, will win, or will on doing a particular act win a prize when in fact there is no prize available then this is a criminal offence.
- b) It's also an offence if a consumer has to pay money in order to claim a prize. In that situation the business will often pocket the money you pay, and amazingly enough, the prize will never arrive. Both of these are scams.

Often these scams are sent by spam email, but variants are letters and phone calls requesting payment of “claim” or “administration” fees by credit or debit card. Consumers should never respond with payment for these types of offer, as often the scammers, as well as not being genuine will steal the card data for their own use.

You can report this scam to Action Fraud [http://www.actionfraud.police.uk/fraud\\_protection/lottery\\_fraud](http://www.actionfraud.police.uk/fraud_protection/lottery_fraud)

## Falsely creating the impression of a free offer

Free offers for an action by a consumer should be exactly that. If a trader requests payment or attaches a further purchase requirement to a free offer, this breaks the rules and is an offence. (it is permitted for the trader to charge for the delivery of the free item.)

For example, not allowed would be:

*“Thanks for signing-up to our mailing list. Call now and get your FREE gift, a pair of Impulse designer sunglasses!”*

*Small print: \* Sunglasses available with your order of any Sun Breaks holiday package valued at £2,000 or more. “*

This sort of conduct is a criminal offence, and the punishment a £5000 fine and up to two years imprisonment.

## Claims that a product can influence games of chance are unlawful

For example:

*“This amazing software will help you win the lottery!”*

*Our fantastic algorithm analyses past winning numbers and will help you choose the numbers most likely to win!”*

These adverts are misleading in all cases.

## Using decoy products to trick a consumer

This is where a trader pretends that one product is produced by the same manufacturer as a well-known or respected product, when in fact it is not.

For example,

*“New! The Blacksmith XD2*

*This new, improved espresso maker uses Zennisio XD1 filters but costs half as much as previous Zennisio models.”*

This type of advert or in-store signage is misleading as it implies that the Blacksmith XD2 is the next model in the Zennisio range, but at half the price. In fact, it is a completely separate product, and not even made by the same manufacturer.

## Providing false claims about market information is a crime

If a Hampshire trader passes on materially inaccurate information on market conditions, so that the consumer acquires the product under less favourable conditions then this is a criminal offence.

## Making false claims about curative capacity

Falsely claiming that a product can cure diseases, illnesses, or malformations is a criminal offence unless the claim can be proved scientifically to be correct.

Also, if a business makes assertions about the health benefits of a



product, eg reducing cholesterol, then they have to be able to back this up with actual evidence. If a trader can't then this is likely to be a criminal offence.

If a professional trader is passing themselves off as a consumer then this is breaking the law

The ASA recently ruled against the company that makes Oreos. They were paying vloggers to promote Oreos to their Youtube subscribers, but the vloggers were not making this clear to the people who followed them.

The ASA stated that misleading people in this way was not only against the ASA code of practice but also breaking the law, namely the Unfair Commercial Practices Directive and the CPRs.

Where you can go for help if you've been tricked by a Hampshire trader

## 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, including these regulations.

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

You can contact the Citizens Advice consumer helpline on:

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. (As described earlier). Trading Standards are under a duty to act, so don't put up with being misled!



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