
Consumer Rights Bill

House of Lords

Committee Stage

1st July 2014

Summary

Citizens Advice welcomes the Consumer Rights Bill. The Bill, which consolidates and strengthens the wide range of consumer rights legislation currently in existence, has the potential to make it far simpler for people to understand and use their rights when things go wrong.

There are, however, two changes we would make which have the potential to have a significant positive impact for consumers. These are:

- A requirement for traders to provide information about consumers' rights at point of sale
- Thirty day maximum time limits within which repairs and replacements must be carried out

We believe that these two changes would greatly improve the bill, and make it far easier for consumers to understand and exercise their consumer rights.

Contact

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Introduction

Citizens Advice supports the Consumer Rights Bill. It is an important piece of legislation which clarifies, and in some cases strengthens consumer rights. We worked closely with officials at the Department of Business, Innovation and Skills (BIS) from the earliest development stages of the bill to ensure that the legislation meets the needs of consumers.

The bill contains many important provisions, including:

- Consumers will only have to accept one repair or replacement before being entitled to a refund.
- Consumers will be entitled to require a trader to perform a service again if the initial result was not carried out to a satisfactory level, or receive a partial refund if this is not done.
- Consumers will have the right to receive a full refund when they return faulty goods within 30 days.
- Consumers will be entitled to receive any refund within 14 days of it being promised.

However there are some changes we would like to see made which will substantially strengthen the protections for consumers in the bill. We were delighted to see that the government has accepted our argument that there should be a limit on the amount of time which consumers can be kept waiting for refunds. The other changes we are proposing are similar, in that they are natural extensions of the principles already in the bill and will help this legislation achieve its stated aims. Both of them would have a significant positive impact for consumers, at a negligible additional cost to business.

In summary they are:

- A requirement for traders to display information about consumers' rights at point of sale
- Thirty day maximum time limits within which repairs and replacements must be carried out

We believe that point of sale information will act to improve both consumers and traders' knowledge of their rights and responsibilities and increase compliance with the law. The introduction of thirty day time limits will clarify what consumers are entitled to expect, and help to prevent costly disputes and delays. The case for both of these changes is outlined in more detail below. This briefing also discusses how this bill could be an opportunity to make the provision of essential goods and services more inclusive, and describes our ongoing campaign to reform the law on logbook loans.

Point of sale information

One of the key objectives of the Bill is for consumer law to be easy to use. In order for this to become a reality consumers and traders need to be aware of, and understand, what the new law means for them. Citizens Advice is calling for a requirement for traders to display point of sale information setting out key consumer rights.

In our work advising and advocating for consumers we consistently see cases where they cannot gain redress because they do not know their rights, and this backed up by the research on the subject. The Department for Business, Innovation and Skills recent Consumer Detriment survey showed that, although the majority of people consider themselves to be a 'confident and savvy' consumer, there were substantial gaps in their knowledge. For instance over 2/3 do not know that if a major appliance breaks down 18 months after purchase they still have the right to have it repaired or replaced, even if they did not purchase an extended warranty.¹

Similarly, research by the Northern Ireland Consumer Council showed that even consumers who describe themselves as well informed struggled to accurately answer questions on their consumer rights. For example, 43% of all consumers believed it was legal for shops to display 'no refund' signs, and 68% thought that retailers had no responsibility for faulty goods if they had passed out of warranty.² There is also evidence that traders either do not understand or deliberately misrepresent consumers' statutory rights. Earlier this year *Which?* conducted a secret shopping exercise, contacting six major retailers twelve times each. In 56 out of 72 cases (78%) a member of staff 'stated or gave a clear impression that we didn't have any rights against the retailer, or told us to speak to the manufacturer instead.'³

We frequently see cases where traders deny consumers the redress they are entitled to in law because their rights are not explicitly set out in store policy or the warranty/guarantee has run out. For instance:

Doncaster CAB saw a woman who had bought a laptop as Christmas present for her daughter. Within a few days of the laptop being taken out of the box two keys had fallen off the keyboard. After Christmas the client took the laptop back to the shop, where she was told it was store policy only to offer refund or replacement within 21 days. Instead the shop offered to repair the laptop for a £50 fee, which the client refused to pay. The computer then stopped working entirely and the client was unable to secure the repair to which she was entitled.

A man came to Felixstowe CAB who had bought a second hand car which had developed a faulty turbo charger within two months. He had taken the car to an independent garage for assessment. They said that the part needed replacing completely and that this would cost £2,000. When he returned to the garage where he'd purchased the car they refused to repair the vehicle, claiming that the three month warranty that he had bought along with the car did not cover turbochargers.

At second reading the Secretary of State said that he wanted the bill to 'create more confident consumers, who in turn will be more likely to try new and innovative goods and services, which in turn will create a more responsive and vibrant UK economy.'⁴ For this to happen it is crucial that

¹ Department for Business, Innovation and Skills, *Consumer Engagement and Detriment Survey: 2014* (2014)

² The Consumer Council, *Canny Consumers?* (2012)

³ 'The Faulty goods fob-off' *Which?* January 2014, pp.38-41

⁴ Hansard 28th January 2014, Column 776

consumers know about the new law's provisions. As the Minister, Jenny Willott MP said in her response to pre-legislative scrutiny 'consumers cannot be confident when they do not understand their rights or find it hard to know what they are entitled to if something goes wrong.'⁵

The aim of our proposal is to strengthen this bill by making key consumer rights piece of common knowledge. Requiring traders to display consumer rights at point of sale will raise both consumers and traders' general awareness of the law, by reminding them of it during every transaction. Consumers will know when they have reasonable grounds to complain and what they can legally expect the trader to do about the issue. This would encourage more people to exercise their consumer rights and to seek redress. Accurate knowledge of the legal situation would also reduce the scope for disagreement between traders and consumers, and help to prevent both parties wasting time and money on avoidable disputes. In addition the extent to which business honour consumers' basic rights currently varies from trader to trader. If these rights become more well-known and better understood it will help to level the playing field between traders and aid competition.

We are proposing a flexible approach for traders, who will be free to communicate this information in the format that they feel is most appropriate for their business. For instance, they could integrate it into their receipt or quotes, give out cards to customers when they make purchase, or put up signs in their stores. What they will be required to do is clearly and prominently set out consumers' basic rights are if the good, service or digital content they are being sold turns out to be faulty or substandard.

This reform is essential to the success of the bill. It will help to ensure that Consumers' rights do not just exist in theory but are acknowledged and honoured in practice. We implore the House of Lords to take the opportunity to make this significant change.

⁵ Department for Business, Innovation and Skills, *Consumer Rights Bill: Statement on Policy Reform and Responses to Pre-Legislative Scrutiny* (2014)

30 day time limits for repair and replacement

We believe that traders should be required to carry out repairs and replacements within 30 days unless the consumer agrees to a longer timeframe. This would provide valuable clarity and empower consumers to demand a better service when traders unduly prevaricate.

The Bill rightly aims to make complex consumer law easier to understand and we believe that in many aspects this goal is achieved. Where the Bill applies rights for goods, services and digital content, it makes use of the two tiered system outlined in the Sale of Goods and Associated Guarantees Directive, which has been transposed into UK legislation as the Sale and Supply of Goods to Consumers Regulations 2000. The tiers are repair or replacement followed (where the repair/ replacement fails to resolve things) by part or full refund.

These layers of redress include the requirement that repairs or replacements are done within a 'reasonable time' and without 'significant inconvenience'. Citizens Advice supports the inclusion in the Bill of a limit to the number of repairs and replacement that a consumer has to accept to one. We also strongly welcome the government's decision during the commons stages of the bill to oblige traders to pay any refund within 14 days.

However the essential problem of how long a period of time is considered to be 'reasonable' for the execution of a repair or replacement has not yet been addressed. Elsewhere in the Bill, a limit of 30 days is placed on consumers for the rejection of a product. We therefore suggest that the same 30 day limit is imposed on the time within which a repair or replacement must be carried out by the trader.

Consumer research carried out by Citizens Advice supports this proposal. In a survey conducted by Ipsos MORI on our behalf a representative sample of consumers were asked how useful it would be to have a right to have problems resolved within a set time and a right to have some or all of their money back if it could not be done in this time. Ninety one per cent said that this would be very or fairly useful.⁶

The following examples, taken from calls made to the Citizens Advice Consumer Helpline, demonstrate that people often find that they face a long, indeterminate wait to receive the remedy they are entitled to:

A man called the helpline about a tablet computer he had bought directly from the manufacturer, who gave him a 'limited warranty' which said they would repair any faults which developed within a year. The warranty specified that such repairs would be completed within a 'reasonable time.' When, after 7 months, the tablet developed a fault, the client sent it in for repair but was still waiting for it to be repaired two months later.

A woman called the helpline after having bought a conservatory which had started to leak. After she complained the trader agreed to undertake repairs but kept cancelling appointments to come in and do the work. Over a month after the initial complaint the roof of the conservatory was still letting in water.

We understand that in some cases repairs will take longer than 30 days to carry out, perhaps because parts need to be transported from a distant location. Our proposal would not prevent the trader and consumer agreeing a longer time scale for the repair where appropriate. We want to

⁶ Citizens Advice *Redressing the balance* (2012) p9

ensure that the new law avoids creating a loophole which allows unscrupulous traders to make consumers wait an unacceptably long time for a repair or replacement in the hope that they simply give up trying.

Fairness and the inclusive provision of essential goods and services

Many key goods and services that are essential to everyday life are provided in the market place. Citizens Advice and Consumer Futures have, for some time, argued that equality and inclusivity should be integral to the design of service provision. In the early stages of the Consumer Rights Bill's development BIS indicated that they would be willing to explore using this legislation to take action on consumer vulnerability in essential services. We were disappointed that such action has not emerged and would like to use this opportunity to reopen discussion on the issue.

In 2010 Citizens Advice and Consumer Futures worked with the BSI on the production of its British Standard 18477 which 'specifies procedures for ensuring that services are available and made accessible to all consumers equally, regardless of their personal circumstances.'⁷ The standard requires companies to 'adopt a proactive and anticipatory approach, in which equality and inclusivity are integral to the design of services and the provision of goods; where systems are in place to identify consumer vulnerability; and where follow-up procedures are robustly applied to give the best service to the individual.'

In 2012 at the request of the department for Business, Innovation and Skills, we published *Tackling Consumer Vulnerability: an action plan for empowerment*. The action plan stated that: 'The Government proposes the introduction of a Consumer Bill of Rights to consolidate, clarify and strengthen the consumer laws. The bill should include measures to improve the rights of consumers in vulnerable positions and any accompanying guidance should encourage companies to identify and respond effectively to consumer vulnerability, and incentivise them to adopt BS 18477.'⁸

Better Choices: Better Deals, BIS' 2012 progress report on the Consumer Empowerment Strategy, recognised these recommendations and expressed a willingness to discuss ways forward but since then progress on the issue has stalled.⁹ This has led to a situation where to date no company providing essential goods and services has publicly adopted or benchmarked its services against the BS 18477 standard.

The Consumer Rights Bill provides the opportunity to move forward and make sure that companies are proactive in treating consumers fairly and are inclusive in their approach to providing essential goods and services to consumers.

⁷ <http://www.slideshare.net/BSIStandards/bsi-inclusive-services-brochure-accessible-version>

⁸ Consumer Futures, *Tackling consumer vulnerability – an action plan for empowerment* (2012). Defined a consumer in a vulnerable situation as someone: 'who cannot choose or access essential products and services which are suitable for their needs, or cannot do so without disproportionate effort/cost/time.'

⁹ BIS, *Better Choices, Better Deals: Report on Progress on the Consumer Empowerment Strategy* (2012)

Logbook Loans

Bill of sale lending, known as logbook loans, involve a consumer offering an item of their personal property (usually a vehicle) as security for a loan. This is an antiquated form of consumer credit that has been widely criticised not least in the debates in House of Commons on the Consumer Rights Bill.

Citizens Advice has undertaken considerable research into the detriment caused by this market and is calling for a reform of the law governing logbook loans to bring them in line with modern consumer protections.

There has been a significant increase in the size of the logbook loan market in recent years. Citizens Advice sent an FOI to the High Court and found that there has been a 35% increase in bills of sale registered from 2011 to 2013 and on current trends there will be a 61% increase from 2011 to 2014.



We also analysed the individual cases from our bureau evidence and consumer service helpline databases where consumers had an issue with logbook loans. We found irresponsible lending practices and aggressive debt collection are common as there is no incentive for the lender to negotiate when a customer gets into payment difficulties as lenders can seize the asset without a court order.

We also found that some people face having their newly purchased vehicle taken away as the previous owner took out a logbook loan and then sold the vehicle on before repaying. The innocent purchasers have little access to redress as their only option is to go to court.

Of all the consumers who have taken out logbook loans, we found:

- 28 per cent were not treated fairly or appropriately by the lender.
- 17 per cent had not had the terms of the loans clearly explained in a way they understood.
- 17 per cent had their car taken away despite not being the original borrower.
- 14 per cent experienced harsh debt collection practices.
- 9 per cent had a lack of proper checks to make sure the borrower could repay.
- 8 per cent were hit with high charges for defaulting on their loan.

We recommended that the protections that apply to other forms of consumer credit, like hire purchase and conditional sale agreements, should be extended to logbook lending. This would

include requiring lenders to obtain a court order before seizure of assets. We also want to see more protection for innocent purchasers of vehicles subject to outstanding logbook loans such as granting them ownership of the car if it was bought in 'good faith'.

The Treasury has recommended that the Law Commission should reform the law around bills of sale in their 12th programme of reform. We believe it is essential that there is a comprehensive reform of the law around logbook loans and that they are governed by modern consumer protections to prevent consumers facing continued detriment in this market.