
Consumer Rights Bill

House of Commons

Report Stage

13th May 2014

Summary

Citizens Advice strongly 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 easier for people to understand and use their rights when things go wrong. We would therefore like to see the Bill pass through the legislative process without major alteration.

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

- Changes to the requirements around the provision of point of sale information
- Thirty day maximum time limits within which repairs, replacements must be carried out

Contact

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Introduction

Citizens Advice strongly 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.

We therefore want the bill to pass without major alteration. However there are some minor but significant adjustments 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:

- Changes to the requirements around the provision of point of sale information
- 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.

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 provide point of sale information setting out key consumer rights.

A Citizens Advice report, *Redressing the Balance*, demonstrated that there is widespread misunderstanding amongst consumers and traders regarding their rights and obligations.¹ 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 instance, 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

Consumer Focus' 2012 Consumer Detriment survey found that a third of consumers facing a problem with a company did not 'complain or do something else to try to resolve it.'³ We believe that one reason consumers can be reluctant to complain is that they are not fully aware of their rights.

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% of the total) 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.'⁴

Our Bureaux regularly see consumers who are having difficulty effectively exercising their rights because either they or the trader concerned did not understand the law. 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.

We believe that obliging traders to provide information about consumers' rights at the point of sale is in keeping with the spirit of the bill, and will make it more likely to achieve the government's stated aims. 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.'⁵ For this to happen it is crucial that

¹ Citizens Advice *Redressing the balance* (2012)

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

³ Consumer Focus, *Consumer Detriment* (2012)

⁴ 'The Faulty goods fob-off' *Which?* January 2014, pp.38-41

⁵ Hansard 28th January 2014, Column 776

consumers actually 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.'⁶

The provision of point of sale information will foster a greater awareness of the law in general. Being reminded of their rights during every transaction will help to ensure that consumers know and understand their rights, and make it easier to resolve problems when they occur. 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, enforcement penalties for failures by traders to comply with the law are included in the draft Bill. A model notice setting out the rights and responsibilities of consumers and traders at the point of sale will help traders to avoid this pitfall by getting it right first time.

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 or service they are being sold turns out to be faulty or substandard.

This reform is crucial to the success of the bill. We acknowledge that the Government have been exploring the proposal within the implementation working group, of which Citizens Advice is a member. However we are concerned that this requirement will cease to be a priority during discussions around the implementation of the bill. There is also a risk that it would be introduced in a significantly watered down form at an undetermined later date or not at all. We are therefore asking parliament to take this opportunity to place it on the face of the legislation.

⁶ 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

Repair/ redress

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 amendments requiring 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.⁷

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.

⁷ Citizens Advice *Redressing the balance* (2012) p9

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 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.

Additional Points

The proposals above are the two changes that we feel would do most to improve consumers' experience, and ensure that this legislation secures its stated aims. However, the bill also brings up several other important issues which are worthy of consideration.

Small Businesses

We think that small businesses could benefit from the protections provided in the bill. Many such businesses purchase goods and services on a much smaller scale than large businesses, especially in regulated markets. For instance a survey of small businesses conducted by Consumer Focus in 2012 found that 61 % spent less than £1,500 on gas per year and 57% spent less £1500 on electricity.⁸ These low levels of consumption mean that small businesses often have neither the financial bargaining power of larger companies nor the additional legal rights granted to individual consumers. Because of this they can face difficulty reconciling disputes with suppliers and gaining redress. Forthcoming research commissioned by Consumer Futures into small businesses' experience in regulated markets has found that they are often dissatisfied with how their suppliers deal with complaints. For instance 43% of businesses who had complained to their water supplier were not satisfied with the way the complaint was handled, as were 44 % who had complained to their gas supplier, and 31 % who had complained about a telecoms service.⁹

There has been a trend in recent years of regulators recognising that the pressures small businesses face are distinct from those facing larger businesses and that they can need greater protections. However all these moves have been sector specific and often do not cover the intermediary services which are becoming an increasingly important part of regulated markets. Small businesses rarely have access to the same specialist expertise as larger businesses, and therefore could benefit greatly from the general, easy to comprehend provisions of the bill. Therefore we would advocate that the smallest businesses, micro businesses (up to 10 FTE) should be included in the protections offered by the Consumer Rights Bill by default unless it can be proved it is unnecessary or disproportionate.

Consumer Credit

We feel that the bill works best as a piece of legislation amending general consumer law, and therefore that sector specific provisions should not be added. However some of the amendments put forward on consumer credit refer to practices which are of great concern to Citizens Advice and which we urge the government to take further, separate action against.

New Clause 9 calls for a ban on credit brokers charging any fees before they have successfully introduced the customers to a lender. In 2011 Citizens Advice made a super-complaint about Credit Brokers to the Office of Fair Trading, in which we called for a ban on up-front fees. Three years later the issue is still a great concern. A recent analysis of calls to the Consumer Service revealed cases of clients who had not realised that they would be charged an up-front fee and having money taken from their account without their consent. The helpline also saw cases of clients thinking they were dealing directly with a lender rather than a broker, traders giving misleading information about when they would charge a client, and difficulties getting refunds.¹⁰ We also have reason to believe that few

⁸ Consumer Futures, *Under the Microscope – Reviewing the Micro-business market* (2012)

⁹ Forthcoming research undertaken by BMG Research for Consumer Futures.

¹⁰ Analysis of 503 calls made to the Consumer Service on financial service issues issues in the week commencing 3 March 2014. Almost half of these were about credit issues, and of credit issues, half were about credit brokers (117).

of the clients who pay these fees actually secure a loan –another analysis of Consumer Helpline calls made between June and July 2013 only found 39 out of 490 cases where the client had definitely been put in contact with a lender, and many of these clients felt the credit offered was unsuitable

Our evidence is about problems caused by brokers under the old regulatory regime. As of 1 April credit brokers have been placed under the new FCA Consumer Credit regulatory regime. We are hopeful that the more rigorous authorisation process will discourage non-compliant firms from applying, or that they are disbarred during the process and the bad practices of firms which do get authorisation will be dealt with through the FCA's sharper regulatory processes.

New Clause 23 relates to Bills of Sale, which are often known as logbook loans. Bill of sale lending involves a consumer offering an item of their personal property (usually a car) as a security for a loan. Ownership of the item then moves from the consumer to the lender meaning a lender does not require a court order before they can repossess the item. Although the market in logbook lending is small, the level of consumer detriment in this market is high. **Irresponsible lending and aggressive debt collection practices** are common because there is no incentive for the lender to negotiate when the consumer gets into payment difficulties as they can seize the asset after issuing a default notice.

Some people who have taken out a logbook loan **sell the car on without informing the buyer** of the loan secured against it. The buyer stands to lose both the car and the money they paid for it if the lender decides to take possession of the asset. In these cases innocent third party consumers who have bought the car in good faith have few rights and their only access to redress would be to sue the person from whom they bought the car. An analysis of cases recorded by both Bureau and the Consumer Service between 2011 and 2014 found 17% involved clients whose car had been taken away despite not being the original borrower. We are therefore calling for the government to urgently reform the Victorian legislation which regulates Bills of Sale. Any such reform should remove logbook lenders' current power to seize and sell an asset without a court order.

New Clauses and New Schedules Relation to Public Services, Guidance or Access to Data

Many of the provisions of this bill are based on the idea that it is important that consumers have a sound understanding of both the contracts they enter in to and their legal rights. Legislative change and consumer education can do a substantial amount to foster this understanding; however there will always be circumstances in which people need additional support. We therefore welcome the sections of New Clauses 1 and 5 which highlight the importance of independent advocacy and advice in both private consumer transactions and the provision of public services.

Though recent figures show signs of growth in the economy and a fall in unemployment, for many people the long-term effects of the recession are still being felt. We are in the midst of major periods of reform in the delivery of welfare, healthcare and other public services and are heading for more with the introduction of universal credit and further cuts to local services. Access to relevant, impartial advice will become more and more important to help navigate complex decisions and to give people the voice and confidence to act on issues that concern them.

Our experience backs this up. Since the start of the downturn, we have seen 53 per cent more young people coming to their local Citizens Advice Bureaux to ask for help with paying their rent or finding a job. Our research shows that nine out of ten people worry they are not ready for universal credit, and would need advice and support with budgeting, working out monthly payments, staying informed of changes and getting online. Tailored, dedicated and expert support will be paramount to people dealing with the upheaval the reforms cause.

Significant welfare reforms place a burden on advice providers. Since the introduction of the under occupancy charge and the 10 per cent reduction and localisation of council tax support, Citizens Advice Bureaux have seen a 110 per cent increase in enquiries about discretionary housing payments and a twelve per cent increase in enquiries about threatened homelessness from social housing tenants. Since Employment and Support Allowance was introduced in 2008 Citizens Advice Bureaux have dealt with almost 1.5 million enquiries relating to the new benefit. To date Citizens Advice has received no direct money from DWP for advice to support advice around these significant reforms.

Though vitally important, information on its own is not sufficient. With the internet and the spread of price comparison and switching sites, we can find information more quickly than ever. Making sense of it, however, is arguably increasingly difficult, as websites and companies compete for our attention and support. We rely on those we trust to work it out.

We want other departments across Whitehall and local authorities to recognise the value of advice, not just as a way to help people understand how policies affect them but as a fundamental part of a healthy and effective democracy. The right advice will be critical in making big changes really work for people