

## Secondhand cars

When you buy a secondhand car, your rights will depend on whether you bought the car from a dealer, at an auction or from a private seller.

### Buying from a dealer - what the law says

If you bought the car from a **dealer**, the law says the car must:

- **match its description.** This means it must be as described by the seller. This includes any written description in an advertisement or catalogue; *and*
- **be of satisfactory quality.** This means the car must be in **reasonable condition**, considering its **age** and **make**, its **past history** and the **price** paid. It must be fit for its purpose (for example, if you request a vehicle which is capable of towing a large caravan, it must be capable of doing the job). It must also be **roadworthy**. (It is a criminal offence to sell an unroadworthy car). A car is not roadworthy if its brakes, tyres, steering, or construction make it unfit for the road.

You will **not** have these rights if:

- the dealer **pointed out** the full extent of any fault before you bought the car; *or*
- you **examined** the car and should have noticed the fault. This mainly applies to cosmetic defects if examined by a lay person. The dealer would not be able to evade responsibility for mechanical defects if they were not apparent on your examination.

### Vehicle checks

Before purchase, it is worth carrying out a check to discover whether the car has been the subject of an insurance write off, stolen, or whether there is outstanding finance from a previous sale. For information about how to check on these things, go to the Directgov website at: [www.direct.gov.uk](http://www.direct.gov.uk) and follow the links to Motoring and Buying and Selling a Vehicle.

Mileage checks may be available. For peace of mind, you may wish to get the vehicle inspected for mechanical faults by an expert. There is a charge for these services.

For more information about what to look out for when you buy a secondhand car, go to [www.consumerdirect.org.uk](http://www.consumerdirect.org.uk) and follow the link to Advice on goods and services.

## Cancellation/ withdrawal

- Do not agree or sign anything unless you are absolutely sure that you wish to go ahead with the purchase.
- If you are paying for the car by cash, there is no cooling off period. You would normally be legally bound from the moment you both agreed the deal.
- If the deal is subject to finance, but you have not signed a finance agreement, neither party is legally bound until the finance agreement has been signed by both parties.
- If you have signed a finance agreement but the finance company has not yet approved it, you may be able to withdraw if you act **very quickly**. Telephone the finance company immediately and follow it up with a letter confirming withdrawal.
- **Beware of signing any document that states that you have examined the car and found it satisfactory in all respects.**

## Guarantee or extended warranty

If the car was sold with a guarantee or an extended warranty, you may have additional rights. The guarantee or warranty cannot take away your statutory rights. You should check the small print on your warranty. Many have exclusions such as wear and tear. If you are buying a high-mileage car, you need to ask yourself if the warranty is likely to cover the problems most likely to occur and consider whether the warranty offers value for money.

## Special rules if you paid by credit

If you used your **credit card** or the seller arranged the finance for you to pay for the car, and it cost more than £100 and less than £30 000, the credit company may be **equally liable** for any breach of contract. This means that if the car is faulty, you may be able to claim a refund or the cost of repairs from the finance company, the dealer, or both jointly. The rules regarding hire purchase and conditional sale are different to other agreements in that it is the finance company that is solely responsible.

## Your rights if the car is faulty

### Criminal offences

A criminal offence will have been committed if the dealer:

- **gives a false description** (for example, states there has been one careful owner when the log book shows four former keepers); *or*
- sells an **unroadworthy** car; *or*
- **alters the mileage reading** or sells you a car with an **altered mileage reading**; *or*
- **pretends** to be a **private seller**.

If you think that any of these might apply to your situation, before taking any action against the seller, you should report the matter to Consumer Direct on

0845 404 0506. Also, in the case of personal injury, you should take legal advice on your claim.

## Refund

Whether you can return the car and demand your money back depends in part on how long you have had the car and how many miles it has travelled before reporting the fault. If the fault is serious and you have not done many miles and return (reject) it very shortly after purchase, you may be entitled to a full refund. If, however, you keep the car for a longer time without returning it, you may lose this right, although you may still be entitled to ask for the fault to be rectified. If you are entitled to a refund, this will include both the money you paid for the faulty car and the return of any part-exchanged car. If the part-exchanged car has since been sold, you are entitled to the cash value as represented on your paperwork.

## Replacement or repair

If you bought the car on or after 31 March 2003, you can ask the seller to replace or repair it free of charge if it is faulty. If you do this within six months of receiving the car, and it is reasonable to expect it to have lasted for the period of time you have had it, it will be assumed that the problem existed when you bought the car, unless the seller can show otherwise. However, you can still ask for a replacement or a repair for up to six years from the date that you bought the car, if it is reasonable for it to have lasted that long. In this case, it will be up to you to show that the car was faulty at the time of sale. The longer you have had the car, the more difficult it is to prove that the fault was there at the time of sale.

If:

- it is impossible to replace or repair the car; *or*
- replacement or repair would be unreasonably costly for the seller when compared with alternative remedies; *or*
- the seller fails to replace or repair the car within a reasonable time of having agreed to do so, or causes you significant inconvenience

then:

- you can ask for a partial or full refund. The amount of money you get back may be reduced to take account of any use that you have had out of the car.

## Compensation

You may be entitled to compensation if:

- the contract has been broken (**breach of contract**) because the vehicle is not as described, of satisfactory quality or fit for its purpose
- the dealer has made a **false statement** about the car to make you buy it (for example, telling you it has had a new engine fitted when the engine is reconditioned)
- you have had an **injury** because the car is **unroadworthy** or **unsafe**. You should always take legal advice before deciding whether to accept an offer of compensation for personal injury

- a fault with the car **caused damage** to something else
- you accept a **repair** which turns out to be **unsatisfactory**
- you have incurred **additional expenses** because of the dealer's breach of contract, for example, having to make telephone calls or pay for alternative transport.

## How to solve your problem

Once you have decided what your rights are, contact the dealer. It is the **dealer** and/or the **finance company** and **not** the **manufacturer** who is responsible for dealing with your complaint. Follow the steps below:

- **stop using the car**
- **collect all your documents together**, including your sales invoice, guarantee or warranty and/or credit agreement
- if someone has been **injured** or if you feel a **criminal offence** has been committed (for example, the car is unroadworthy), you should contact Consumer Direct on 0845 404 0506 before going back to the trader
- **contact the dealer** and the finance company (if applicable) as soon as you discover the fault. Take the car back, and ask to speak to a manager or the owner. Alternatively, write to the manager or owner, enclosing a **copy** of your sales invoice. Keep a copy of your letter. Explain your problem calmly but firmly and ask for a **full refund**, a **repair**, a **replacement**, or **compensation** and set a time limit
- **if the cause of the problem is in dispute**, it may be necessary to obtain an expert opinion. This could be obtained through a trade association or the AA or RAC, or from anyone suitably qualified who is willing to put their findings in writing. Reports must usually be paid for, and you should reach agreement with the seller in advance on the choice of expert and that you will both be bound by the experts findings. You should then be able to recover the cost if the complaint is upheld. If you go through a trade association, it may offer conciliation or arbitration. Arbitration is often legally binding. If you would like more information before you commit yourself, contact the trade association for further details
- **if you are still dissatisfied**, or you do not want to accept arbitration, write to the dealer and/or the finance company repeating your complaint and the steps that have been taken. Say that you will give them fourteen days to sort out the problem or you will consider legal action. Send your letter by **recorded delivery** with a copy to the head office. Be sure to **keep copies** of all letters

- **if the dealer makes an alternative offer** (for example a replacement car), you can either accept or continue to **negotiate**. Be realistic in what you will accept. You may not get a better offer by going to court
- **if the dealer doesn't reply to your letters**, refuses to do anything, or makes a final offer that you are unwilling to accept, your only other choice is to go to court. If you are claiming the cost of repairs, make sure you have obtained sufficient evidence to prove your claim, for example, expert reports and photographs before you allow another garage to repair the car. **Remember, court is your last resort**. You also need to find out if the dealer is **solvent**. It is not worth suing a person or a firm that has no money.

**If you have lost money on a faulty car, don't waste more money on a case you cannot win.**

## Buying a car at an auction - what the law says

If you buy a second hand car at an **auction** that you have the opportunity to attend in person, your rights may be limited if the car turns out to be faulty. You should check the terms and conditions of business of the auction, for example in the catalogue or on notices on display. If they state that your rights under the Sale of Goods Act are excluded, you are buying the car **as seen** and it is your responsibility to check the car before you bid for it. Some auctions will offer insurance against the vehicle turning out to be stolen and some may offer you a cooling off period (although this may often be very short - a matter of a few hours).

## Buying a car from a private seller - what the law says

If you buy a car from a **private seller**, you will only be able to take action against a private seller if the car is **not as described**. The seller will be liable for a false description even if s/he believed the description to be true. Be wary of a seller who wants to meet you away from his private address, whose name is not on the log book or who is evasive about answering your questions. If the seller pretends to be a private seller when they are in fact a dealer, they are guilty of a criminal offence. You should report them to Consumer Direct.

## Organisations that deal with complaints about cars

### Society of Motor Manufacturers and Traders (SMMT)

If you have a dispute regarding a warranty from a manufacturer or from a mechanical breakdown insurance company that is a member of the SMMT, you may be able to use the SMMT conciliation service. You can contact them on 0870 7518270 for more information.

## **Retail Motor Industry federation (RMI) / Society of Motor Auctions (SMA)**

These are both part of the same organisation. Members must follow a **Code of Practice**. There is an internal conciliation service and an independent arbitration scheme run by the Chartered Institute of Arbitrators to deal with complaints against its members. You can contact the RMI and SMA on 08457 585350.

## **Other fact sheets that might be helpful**

- Buying at auction
- Guarantees
- Supplier goes out of business
- Sample letters
- Safety
- Starting court action
- Credit

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