
Consumer Guarantees

Manufacturers are under no obligation to offer a guarantee for goods. However, if a business does offer one, this will create a legally binding contract between the business and the consumer.

This checklist sets out the legal obligations your business owes to a consumer if you offer a manufacturer's guarantee with your goods.

What is a consumer guarantee?

- A consumer guarantee is any undertaking to a consumer by a business, given without any charge, to reimburse the price paid, or to replace, repair or handle goods in any way, if the goods do not meet the specifications set out in the guarantee statement or in the relevant advertising. The most common types of free guarantees are:
 - a guarantee for goods that turn out to be defective during a fixed period after purchase (for example, one year). The guarantor promises to replace or repair the goods; and
 - a guarantee if the consumer decides they do not want the goods, normally limited to a very short period (for example, 30 days). The guarantor promises to give the consumer their money back if they are not satisfied with the goods.

Why offer a guarantee?

- A manufacturer is under no obligation to offer a guarantee for goods. However, if your business does offer one, this will create a legally binding contract between you and the consumer. Your business may want to offer a guarantee because it:
 - promotes the product;

- sets it apart from similar competitor products in the marketplace; or
- helps establish your business as a reputable and reliable manufacturer.

- If the consumer is required to send a guarantee form to register the product, the consumer information is relevant for your business' traceability obligations for product recall purposes.

Are there any specific rules that must be complied with?

There is no fixed form of a guarantee. Your business will have the discretion to decide the terms on which it applies. However, you must ensure the guarantee:

- Sets out the essential information for making claims, in particular the duration and territorial scope of the guarantee. Make sure you set out all the steps a consumer must take (for example, the consumer has to register the product with your company).
- Is made available to a consumer in writing on request. Normally, written guarantees are included with the goods on delivery, but this requirement would allow a consumer who has lost their guarantee to ask your business for a copy.
- Is written in plain and intelligible language.
- States that the consumer has statutory rights in relation to the goods and these statutory rights are not affected by the guarantee. It is advisable to also add a sentence to your guarantee stating that consumers can obtain information about their legal rights from:
 - trading standards offices; or
 - citizens' advice bureaux.

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Excluding liability under the guarantee

- Your business should never try to restrict or exclude liability for death or personal injury caused by defective goods or your negligence.
- Any terms in the guarantee that try to exclude or restrict liability must be reasonable (for example, if the guarantee includes a promise to repair the goods, your business must take reasonable care and skill when repairing).
- The terms of your guarantee will be subject to legislation that makes any unfair terms in your guarantee unenforceable.

Rights of a consumer under the guarantee

- Free guarantees should not be confused with “extended warranties” which a consumer will pay for (for example, on white goods).
- If your business fails to fulfil your obligations under the guarantee, the consumer may be able to claim damages. However, in practice, a consumer is probably more likely to first complain to:
 - Trading Standards;
 - the Office of Fair Trading; or
 - the media.

The result may be damage to your reputation far beyond the cost of honouring the guarantee to that consumer.

- Your guarantee does not affect a consumer’s rights:
 - against you for defective products causing death, personal injury or damage to private property; or

- against the seller for faulty goods or goods failing to comply with implied terms (for example, satisfactory quality or fitness for purpose).

- It is a criminal offence for your guarantee to give the impression to consumers that they have no remedy other than the guarantee.

More information

If you have any questions, please visit our website at www.conybeare.com or feel free to contact Steven Conybeare via email steven@conybeare.com or call him on +44 (0) 870 753 0925.

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About Conybeare Solicitors

Conybeare Solicitors is a boutique international law firm, built upon a solid foundation of business experience and legal expertise gained over 20 years, providing a premium service to sophisticated clients, wherever they may be. We offer our clients a better perspective.

Our philosophy is simple: to work with our clients to help them realise their objectives.

We do this by fully understanding your requirements, taking into account business parameters, developing and executing a strategy to minimise regulatory and legal risk and drawing together the full extent of our legal expertise and business experience. Ultimately, we provide you with solutions to achieve your ambitions.

We are entrepreneurial in the way we work, the way we approach the challenges facing our clients and the way in which we ensure that we meet your expectations.

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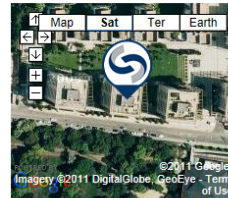


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