



Consumer Awareness: Raising Complaints and Resolving Disputes with a Business.

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Background

The Office of Fair Trading (**OFT**) is issuing guidance and practical information to assist consumers to raise complaints and resolve disputes with local businesses. This guidance has been compiled using data from complaints received by the OFT and focusses on common disputes between consumers and businesses.

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The OFT's role

The OFT is able to assist you if there is a problem with:

1. any goods you have bought from a business in Gibraltar; and/or
2. any service provided to you by a business in Gibraltar.

It can do so by:

1. providing guidance about your consumer rights and how to raise a complaint directly with the business. This is usually the easiest and fastest way to resolve problems; and
2. by investigating a complaint that you have made about the business to the OFT. While the OFT will investigate all complaints made, this takes time to carry out and the OFT's aim shall always be to prevent business practices that are harmful to consumers, not to seek redress for you.

Below we set out practical information about the process of raising problems with a business and how the OFT can assist.

Raising a complaint with a business

If there is a problem with a business's goods or services you should first try to resolve the matter directly with the business by raising a complaint. Businesses should always be given the opportunity to rectify any problems first. This is usually the fastest and simplest way to get redress from a business.

When raising a complaint with a business you should:

1. **Contact the business with your complaint straight away.** Any delay in raising the complaint may affect the redress you may be entitled to.
2. Check if the business has a **formal complaints procedure**. Ask about this or look for this information on its website. Follow this process to progress your complaint before considering any other alternative action.
3. If there is no formal complaints procedure **contact a manager or staff member in writing**, setting out:
 - a. what the problem is;
 - b. the type of redress or solution that you expect; and
 - c. the reasonable timeframe by which this should be provided to you.
4. If you have communicated with the business in person or over the phone follow up the conversation in writing to **keep a record** of it, e.g. by sending an e-mail to the person you spoke to setting out what you have understood from the conversation. **Keep copies of all correspondence.**
5. If you are not dealing with the manager or the owner of the business already, make them aware of the situation that has led to your complaint, e.g. you can do this by copying them into an e-mail.
6. **Be polite and courteous** when raising your complaint to try to avoid any unnecessary confrontation with the business. This will prevent a breakdown of communications and will assist you to achieve the best possible outcome in the fastest possible way.
7. **Do not agree to proposed redress/solutions from the business that you think are unfair.**
8. Should there be a dispute between you and the trader regarding the cause of the problem, you may wish to engage with an independent expert on the matter to make a report. Note however that, while this may allow you to demonstrate that you did not cause the problem, it is likely that the independent may wish to charge you for this service. Always consider if it is worth incurring that cost.

Guidance from the OFT: Knowing your consumer rights

If you are uncertain of what your consumer rights are in a particular situation, the OFT may be able to provide guidance based on the information you give us. This can help you when you approach the business.

Note that a request for guidance shall not be regarded as a formal complaint to the OFT and will not therefore be investigated. Instead, this will be regarded as a request for information to allow you to be informed about your legal rights and the redress you may be entitled to. You may also find information on your consumer rights on the [Consumer Protection](#) page of the OFT's website.

Dispute with business: Making an official complaint to the OFT

If you have raised a complaint with a business and this has not been resolved, or perhaps not acknowledged, you may submit a formal complaint about the business to the OFT. Once received, the OFT will consider the merits of the complaint and decide whether this needs to be investigated further. This shall involve contacting the business and getting their version of events. Note that in order to do so the OFT shall require your consent to investigate the matter so that it can reach out to the business to disclose the information you have provided to it. Note that the OFT cannot investigate a complaint until you have raised the matter directly with the business first.

If another authority regulates the business, the OFT may redirect you to that authority.

If you do decide to submit a formal complaint against a business or progress your complaint in any other way, inform the business that this is your intention. This might lead them to re-evaluate their position to ensure they are conforming with their legal obligations.

When submitting a complaint to the OFT, we will usually require:

1. a full written account of the circumstances that have led to your complaint;
2. copies of relevant receipts / invoices;
3. copies of correspondence between you and the business; and
4. any other information and/or evidence that you consider relevant for the investigation.

Once we have evaluated your complaint, if we find grounds to investigate, we will typically ask that you consent to our terms of service to allow us to use the information from your complaint to contact the business.

If we determine that the business is causing consumer harm in any way, we will usually enter into consultation with the business so that they rectify any harmful business practices. Where necessary, we may also take enforcement action to ensure the complete cessation of the same.

The OFT's principle concern is to correct business practices that may be causing harm to consumers and not necessarily to pursue redress for the consumer. However, in some cases, businesses may offer some form of redress once we begin our investigations.

Alternative resolution via your payment provider

Purchases made using a Credit Card

Generally, you have additional rights if you use your credit card for payments over £100 but less than £30,000, so long as the card issuer is based in UK. If this is the case, you may be able to claim against the credit card company if you have not been successful claiming against the business.

Purchases made using PayPal

You usually also have additional rights when you buy something from a seller via PayPal. When applicable, PayPal Buyer Protection entitles you to reimbursement for the full purchase price of the item plus the original shipping costs you paid, if any. You can check their terms and conditions below:

<https://www.paypal.com/uk/webapps/mpp/ua/useragreement-full#buyer-protection>

Taking further action.

As a last resort, you may also wish to consider court action. If your claim does not exceed £10,000 you may use the [Small Claims Court](#) to do so. We do however recommend that you seek legal advice before initiating this process and that you advise the business that this is your intended course of action. Mediation is also a good alternative to consider prior to taking the matter to court.

Contact us

We hope the above will assist in resolving your complaint with the business. If you have any queries or have encountered any problems, please contact the OFT's Consumer Protection Team:

Email: consumer.protection@gibraltar.gov.gi

Tel: 20071700

Web: www.oft.gov.gi

For up to date consumer guidance visit our website or follow our social media accounts:



Facebook - OFT Gibraltar



Instagram - @OFTgib



Twitter - @OFTGib

The above is provided by way of guidance only and does not constitute legal advice nor should it be relied upon as such. For specific legal advice, we would strongly suggest you contact a lawyer.