



# Buying a used car

## Used motor vehicles – consumer rights

Buying a used car can be problematic when things go wrong. This factsheet is designed to provide some tips to help with buying a car and what to do when things go wrong.

When you buy a car from a trader i.e. a garage or car dealership you enter into a legally-binding contract. You are entitled to expect that the vehicle is of satisfactory quality, fit for purpose and as described. When making this type of purchase you have to expect a vehicle which reflects the age of the car, the price you paid and the mileage. In other words, you cannot expect a high-performance, low-mileage car for the price of an old banger.

When buying any goods, the principal piece of legislation which apply are the Consumer Rights Act 2015 (CRA) for goods purchased after 1 October 2015.

The Consumer Credit Act 1974 (CCA) also covers all purchases made with the help of credit, while the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 (CCR's) applies to distance selling, online or away from a sellers' premises i.e. at home or at work.

To be able to use the rights contained in this legislation (often referred to as your statutory rights) you must be a private individual buying the item for yourself and the seller must be a business seller. Buying from a friend, a man at the pub or a private seller via the internet will not be protected. Buying from an online auction site, such as eBay, may be covered if the seller is a registered business seller.

## Some things to consider when buying a car

When thinking of buying a car - either from a business seller or privately - it is useful to:

- Get things in writing wherever possible and, if buy

ing a car privately, always keep a copy of the original advert to demonstrate how the car was described.

- Check the MOT and service history. This will highlight any faults/maintenance carried out by the seller.
- Where possible, carry out a physical inspection of the vehicle which may highlight points of concern.
- Check the service history as this will show if the car has been regularly maintained.
- When buying from a garage/dealer take time to check the seller's reputation. Ask around and see if there are any reviews online. If a deal looks too good to be true, it probably is. If you get a bad feeling about a seller, do not go ahead.
- Do a HPI check to protect yourself from fraud. A HPI check will tell you whether a car has been stolen, written off or has outstanding finance, as well as giving you a mileage check. Some HPI checks also include CO2 certificates and information about whether a car has had previous plates or other useful extras. There are many online companies offering HPI checks at relatively little cost.
- Consider an independent mechanic check, especially if a car has been a write off. An independent mechanic will be able to alert you to any mechanical issues. With cars, it is often a case of 'buyer beware' so, if it is a large or important purchase, getting the car checked can save a lot of stress later.
- Think about how you want to pay for the car. Paying for some or all of it by credit card will provide you with additional rights (see below).

If you need to prove a fault/defect with a car, consider getting it checked by a member of the Institute of Automotive Engineer Assessors. Members are specialists in faulty vehicle issues, have to comply with the Institution's examination and training requirements and must have had a least two years' experience in a responsible position in the profession before applying for membership.

# Buying a used car

## What the law says about used cars

### The car must be fit for purpose

Any car must be fit for the purpose for which it has been purchased. Therefore:

- The car must do what you would normally expect it to do, it should start and stop when needed and be reliable.
- The car must be able to do what the seller says it should do. If you are concerned that the car you are considering will be able to do what you expect and the seller says it will, you should be able to rely upon that. For example, if you want to use the vehicle to tow a caravan or a trailer of a certain size.
- The car must be fit for the purpose you want to use it for even if that is not the usual use of the item. For example, if you buy the car because the seller recommends it will do a certain job, even though it may not be routinely used for that purpose, then it must be fit for the purpose you intend to use it for.

The advice of the seller is a representation that the car you are intending to purchase is fit for the stated purpose. You can rely upon that representation if it is reasonable to do so.

### Goods must be of satisfactory quality

In addition to being fit for purpose, the car must also be of satisfactory quality for that purpose. It must be in a condition and of a standard that a reasonable person would consider acceptable.

There are a number of areas in which a car can be regarded as being satisfactory. It must be safe, of an acceptable appearance and finish on arrival and durable.

The issue of satisfactory quality is probably the most common cause of dissatisfaction with a used car and the most common problem when callers contact us.

It is also the most difficult aspect of quality to assess and often may require the assistance of a third-party inspection and report. It will certainly be the case that the price, age and mileage of the car are all important factors which will affect the issue of satisfactory quality.

### Goods must match their description

Any car purchased should match the description given to you by the seller. The description can be written, in a picture or by a verbal representation made by the seller. The goods must match what you have been told about them.

## Exceptions to your consumer rights

There are some situations where your rights under SGA and CRA will not apply. This includes:

- If you have done something to the car, or have failed to do something (such as put in oil), any damage will not be included in your statutory rights.
- Normal wear and tear. Where an item has been used and its condition has deteriorated in line with expectations, provided it has lasted as long as would reasonably be expected.
- When a car is bought from a private seller. If you do this, the statutory rights under SGA and CRA do not apply **except** that the car must be as described. This is particularly important when buying a car. Much of your decision to buy will be based on any test drive or inspection. It is very important in these circumstances to ask a private seller any questions you may have.

## What can I do if I am not happy with the car I bought?

If the car is bought from a business seller and is not satisfactory for any of the reasons set out above it is possible that one of the following remedies may be available:

- reject the car and obtain a full refund
- have the car repaired
- have the car replaced
- have the car repaired, and if that does not work, obtain a refund

In any case, your rights will be against the seller who sold you the car and not against the manufacturer.

We frequently speak to callers who have been told

by the seller of the car that they must contact the manufacturer about the fault because it is under warranty. This is not the case as your statutory rights are with the seller - any guarantees or warranties are additional to that.





## Buying a used car



### Can I reject the car and get my money back if it is faulty?

If there's a problem with a second-hand car bought from a trader soon after you've bought it, for example, the car develops a problem you wouldn't expect for the car's age and mileage, or it turns out not to be what you'd been led to expect, you may have the right to reject and return the car and get your money back.

Under the Sale of Goods Act you only have a reasonable time to reject a the car. There is no definition of what is a reasonable time, but generally between three and four weeks, possibly less if the problem is obvious. If the car was bought after 1 October 2015, the Consumer Rights Act provides a statutory period of 30 days in which to reject the car. In either case, you must stop using the car and tell the seller why it is being rejected.

We are often asked whether or not the car has to be returned to the seller. Returning faulty goods should generally be at the cost of the trader. You should check your contract to see if you are required to return it to the trader or not.

If you are rejecting the vehicle, you are requesting a full refund of the purchase price and, in some cases, additional out of pocket expenses.

### What are my rights to have the car repaired or my money refunded?

Often a fault may develop after the recommended time for rejection has passed. In those cases, you may want the seller to consider repairing the vehicle at their own cost or to provide compensation or a refund.

To do this you will need to show the vehicle is not of satisfactory quality, fit for purpose or as described, taking into account the age, mileage and the price

you paid for the car. If the car breaks down in the first six months after purchase, provided it is not due to something you have done or not done, it is accepted that the vehicle was faulty at the time of purchase and it may be possible to recover the cost of any repair.

However, much of the problem at this stage is a matter of evidence and proof. Our advisors frequently have

conversations with callers about this type of issue. It is very difficult for anyone to be able to assess a second-hand car and establish that the fault should not have occurred in that car taking into account the age and the mileage etc. Ideally you should have the car inspected by another garage or mechanic to assess the situation and this will be at your cost. If you do this, however, always check the terms of any warranty you have so that this does not become invalid.

If you can establish that the car is not of satisfactory quality and you cannot reach an agreement with the seller it may be possible to recover the cost of any repair with a claim in the small claims court. At this point you may also be able to recover the cost of an expert's report.

If the car is repaired and the repair fails to solve the problem it is then possible to again reject the goods and request a refund. Any refund may be for the full amount or may take account of the use that you have had of the vehicle.

### Do I have different rights if I bought my car from a private seller?

You have fewer rights when you buy from a private seller and key parts of the Consumer Rights Act don't apply. The legal principle of 'caveat emptor', which means buyer beware operates. You do not have a legal right to expect that the vehicle is satisfactory quality or fit for purpose but it should be as described.

The seller must:

- accurately describe the second-hand car
- not misrepresent the second-hand car i.e they must answer all questions about the car honestly
- sell a car which is roadworthy, unless otherwise stated
- have legal rights to sell the car

### What are my rights if I buy a car at an auction?

Buying a car at auction, where you are present to bid, means you have very limited legal rights.

# Buying a used car

Although the Consumer Rights Act generally provides statutory rights, auction houses are allowed to exclude its main conditions (such as being of satisfactory quality, as described and fit for the purpose) if they put a notice on display in the catalogue or on the wall.

Make sure you check the auction house conditions before you bid. When you buy at auction, your rights are against the seller, not the auction house.

## I am thinking of buying a car I have seen on eBay, will that be different?

If you buy from a professional seller (trader) – a person who makes or sells goods bought with the intention of resale – you will have the same statutory rights as when buying from a garage or dealership. This means your goods must be of satisfactory quality, fit for purpose and as described.

This applies to both new and second-hand items. It should be easy to tell if someone is a business seller – look for “registered as a business seller” on their profile.

With private sellers the usual rules will apply as set out above. In that case there is little legal comeback.

When you buy from a business seller using the buy-it-now button, rather than just a standard auction format, the CCR's will also apply. These Regulations apply to all purchases from a business seller which are completed at a distance, in other words not at the seller's business premises. Anything purchased online will have the benefit of the 14-day cooling off period. This means that you have 14 days from the date the car is received to cancel the contract and request a full refund of the price paid. In this case, you don't even have to prove the car is faulty.

However, there are only a limited number of cases to which this right may apply. The reason for this is that it is usual for a buyer to inspect the car and to test drive it and neither of these things can be done at a distance.

It's also worth noting that under eBay's own buyer protection rules cars are expressly excluded. This means there is no remedy that eBay can offer and no complaints procedure for you to follow.

## Will my car warranty help?

If you bought a warranty, or your second-hand car came with a guarantee, you may be able to use that to get any problems fixed. However, some warranties are better than others. You should read the terms carefully before you buy, particularly the list of exclusions. Some warranties are given by the seller for a short time only and these are often much more limited. This doesn't affect your statutory legal rights and you could still make a claim against the dealer.

## I have bought a car on finance, does this make a difference?

If you buy a vehicle on hire purchase, you have the protection of the Consumer Credit Act 1974 and the Supply of Goods (Implied Terms) Act 1973. The vehicle should still be of satisfactory quality, fit for its purpose and as described, but it is the finance provider, as the owner, that is legally responsible to you as hirer.

In this case, it is to the finance owner, not the garage or dealership, to which any complaint should be made.

If your finance provider will not deal with the issue and refuses to accept there is a claim the matter should be referred to the Financial Ombudsman Service (FOS). Where less than eight weeks has passed since the matter was referred to your finance provider, you will need to obtain a letter of deadlock to give to the FOS.

## I am thinking of buying a car with my credit card, will I have any extra rights?

If you paid for the vehicle wholly or in part using a credit card or a finance agreement arranged for you by the seller, then you may be able to hold the finance provider 'equally liable' (which means equally to blame) for a 'breach of contract'. You can also hold the finance provider equally liable if the seller misrepresented the vehicle to you. These additional rights apply if the cost of the vehicle was below £30,000.

If that is the case and the goods are faulty, not delivered or not of satisfactory quality, then you may make a claim to your credit card company, known as a section 75 claim, in the same way you would to the seller of the goods. You are able to make a claim to the seller and the credit card company at the same time.

If your credit card provider will not deal with the issue and refuses to accept there is a claim the matter should be referred to the Financial Ombudsman Service. You can see more about that [here](#).

We speak to a large number of car buyers who do not use a credit card when buying a car and prefer to pay by cash or debit card. This can be significantly disadvantageous and can in extreme cases cause you significant loss. We have heard from callers who have paid large sums of money in cash for cars only to find that the car is a stolen vehicle and is then reclaimed by the insurance company with no compensation payable to the buyer. Unfortunately, this can even be the case where a HPI check is clear.

Buying a car with your credit card often incurs additional charges of 0.3%. This can be an additional cost that you may not want. However, you can always pay for the deposit only with your credit card and still have full protection.

## Buying a used car



### **I have been asked to pay for my car with my debit card, is that okay?**

If you pay for the car using a debit card and there is a problem with the vehicle, it is sometimes possible to get a refund via the bank which issued the card. This is known as a chargeback application and is not something which is a statutory right but is part of a code banks subscribe to.

This is not the same as the section 75 application (above) and is only possible if there are funds in the seller's bank account to meet the cost and the required is within the bank's terms and conditions with the seller. It cannot be used if you are seeking damages to repair the car. The chargeback remedy can be used if the car is not as described or if the seller is no longer in business and your car has been lost.

There is generally a time limit of 120 days to make the claim and sometimes a cut-off time limit of 540 days. These times may vary from bank to bank. In the event that the bank refuses to do what you ask you can request a letter of 'deadlock' to allow you to take your complaint to the Financial Ombudsman Service (FOS).

Any complaints about a claim should be made to the FOS within six months of your claim to the bank. You can contact the service [here](#).

### **I have paid for my car via PayPal. What if things go wrong?**

If there is a problem with the car and it was paid for using PayPal, the first thing to do is to raise a dispute with PayPal. This must be done within 180 days (nearly six months) of the payment being made. If the matter cannot be resolved there is, unfortunately, no redress to the PayPal Protection Scheme as cars and other vehicles are expressly excluded.

You may also find that you cannot make a claim under section 75 (see above) either as the payment is made to PayPal first and then to the supplier of the vehicle. In other words, the payment is not made directly to the supplier and as such the credit card company will not be equally liable.

### **What happens next?**

If the matter is unresolved, one option is to consider a small claims action in the county court, if the value of the vehicle or repairs is less than £10,000.

In these cases it is generally the seller which will be the defendant but it may also include the credit card company if the goods have been purchased with a credit card.

If you considering any form of legal action, further help is available from the helpline

NOTE: Please be aware there are links contained within this factsheet that may take you to external sites, we are not responsible for their content. This is a general advice and information factsheet only and should not be treated as a definitive guide and does not constitute legal or professional advice. We are not a law firm and information is not intended to create a solicitor client relationship. Law Express does not accept any responsibility for any loss which may arise from relying on information contained in this factsheet. This is not a substitute for legal advice and specific and personal legal advice should be taken on any individual matter. If you need more details or information about the matters referred to in this factsheet please seek formal legal advice. This factsheet is correct at time of going to print. The law set out in this factsheet applies to England and Wales unless otherwise stated.

Copyright © 2021 by Law Express - All rights reserved. This article or any portion thereof may not be reproduced or used in any manner whatsoever without the express written permission of the publisher.