

Refunds and statutory rights – guidance note

The following is an extract from letters sent by the Office of Fair Trading to a number of dispensing companies. Text in italics has been added by the Council as clarification. It does not represent legal advice and is not comprehensive guidance around the statutory rights afforded to hearing aid consumers. All dispensers and their employers are required to comply with consumer protection laws and regulations as well as with specific regulations governing the sale of hearing aids (Code of Practice, 2008, Hearing Aid Council).

“The Company’s contracts are for goods (the hearing aid) **and** services (hearing test and fitting of the aid) and the Supply of Goods and Services Act 1982 (‘SoGS’) applies. SoGS implies terms into contracts as follows: (i) the hearing aids must be of satisfactory quality and fit for purpose and (ii) the service must be provided with reasonable skill and care. These are statutory rights and cannot be waived or excluded.”

“In summary, if hearing aids are not of satisfactory quality or fit for purpose (for example, because they are faulty and do not work or they are not fitted comfortably on/in the ear or have other defects) then the SoGS says that there is a presumption that the defect existed at the time of purchase and within a **six month period** following delivery to the consumer, the consumer has a number of remedies available to him. These include repair of the device, replacement or rescission of the contract (receiving a refund).”

“(Where) Reference is made to statutory rights without any explanation of those rights. We (OFT) consider that the Company should clarify that service fees/charges will not be deducted from a refund (where an aid is faulty).”