

HELP TO PROVE YOUR CASE

If you buy goods that are faulty or have work done which turns out to be unsatisfactory, it is a good idea to try and negotiate with the trader or retailer involved. Sometimes this is not possible and if there is no obvious solution you may find that you have reached a stalemate situation.

To pursue a claim, especially if you are thinking of taking civil action through the Courts, an independent report may make the difference between winning (being awarded judgement) and losing your case. You will need to try and establish:

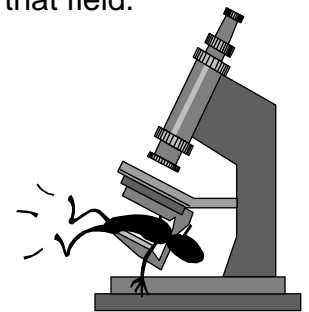
- what the problem is
- how it occurred

The only way you can do this is to have your own independent report done.

WHAT IS AN INDEPENDENT REPORT?

This is basically a qualified, second opinion, which hopefully will confirm and add weight to what you are claiming. The person does not have to be the world's best expert but they should be the same standard as the average competent person in that field.

In some cases though, it may be difficult to prove this 100%. If you are not sure whether the person or organisation you have contacted is professional enough to examine the goods (or the work done) and give such a report, a useful question to ask would be 'Would this person's opinion - in the form of a report - stand up in court as that of a knowledgeable, skilled, practised person, if a District Judge were reading it?'



It would be advisable to get this report in writing. It would be no good asking a neighbour who tinkers with cars as 'a bit of a hobby' to give you a report when you may be thinking of suing a garage because of a faulty car.

WHY IS AN INDEPENDENT REPORT NECESSARY?

A report will strengthen your case because the District Judge in the County Court will make a decision based on the balance of probabilities, ie who has the best evidence. However, in the small claims procedure the judge will try to keep the costs down. Expert witnesses add greatly to the costs of court action.

The role of the expert witness in court proceedings should be to provide information for the judge and this will be their principal duty. Their obligation is to the court NOT to the person paying their bill.

In the early stages of preparing a claim, try not to use an expert. If you feel one is necessary or could help in resolving your dispute, contact the defendant and ask if you could both use the same expert. Try to agree to be bound by their decision and if possible share the cost.

In many instances the district judge will feel competent to decide the case without an expert. If they feel it is necessary they will appoint ONE. This is to avoid the situation where both sides have experts working for them, arguing the case and increasing the length and cost of the case.

If you caused the fault or problem yourself, then there would be no point in having a report done, as the trader concerned would not be obliged to do anything for you.

If the judge feels an expert is necessary to the case, check whether the business you are dealing with belongs to any trade association. There may be a name and/or a logo in the shop or on the trader's headed notepaper; failing this, **ASK**. The trade association may only act for the retailer concerned, in which case there would be no point in pursuing the problem with them.

Many businesses belong to trade associations, but if they do not, it does not always mean they are not reputable traders.

WHERE CAN I GET HELP?

The areas which commonly need independent reports are listed below, along with some of the trade associations or organisations that may be able to assist in a dispute, however, this list is only an indication and not exhaustive.

Cars	Retail Motor Industry Federation 201 Great Portland Street London W1N 5AB Tel: 020 7580 9122 (Also AA, RAC or other motoring organisations)
Clothing (& dry cleaning)	Textile Services Association Ltd 7 Churchill Court 58 Station Road North Harrow Middlesex HA2 7SA Tel: 0208 863 7755
Double Glazing	Glass and Glazing Federation 44-48 Borough High Street London SE1 1XB Tel: 0870 042 4255
Electrical Appliances (including cookers, washing machines, fridges etc)	Radio, Electrical and TV Retailers' Association (RETRA) Ltd RETRA House, St John's Terrace 1 Amptill Street Bedford MK42 9EY Tel: 01234 269110

Fitted Kitchens	The UK Kitchen, Bathroom and Bedroom specialist Association 12 Top Barn Business Centre Holt Heath Worcester, WR6 6NH Tel: 01905 621787
Furniture (& carpets)	The Furniture Ombudsmen Maxwell Road Stevenage Herts SG1 2EW Tel: 0870 162 0690
Home Improvements (including building work, conservatories etc)	Local Council Building Inspectors
Plumbing	Institute of Plumbing 64 Station Lane Hornchurch Essex RM12 6NB Tel: 01708 472791

If you cannot find anyone prepared to give you a report, try your insurance company. Although they won't be able to intervene, they may be able to give you a local insurance assessor or local traders they use, who may be prepared to examine your goods or work done.

If a trader does not belong to a trade association, ask other local traders for a report. Often recommendations for who to use come from friends, neighbours, relatives or work colleagues.

Trading Standards Website: www.tradingstandards.gov.uk/kent

For further consumer advice please call Consumer Direct on the local rate number given below

08454 04 05 06

