

ELECTRICAL CONTRACTORS AND CONSUMER LAW



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ELECSA

Dispute Resolution
Ombudsman



WHEN ARE YOU LIABLE AND FOR HOW LONG?

This guide to consumer law for electrical contractors has been published by the Dispute Resolution Ombudsman in partnership with ELECSA and NICEIC.

It is designed to outline your obligations as an electrical business under the Consumer Rights Act 2015, the remedies your customers may have and for how long these apply.

As an electrical contractor you will have liability arising out of any contract, which you enter into with a consumer which may not be stated in your contract.

Certain requirements are 'implied' into every contract entered into between a business and consumer after 1st October 2015 (other provisions remain in place for contracts before this date) and you will need to be aware of them and ensure that your business complies with them when dealing with your clients.



IMPLIED TERMS:

These are terms that enforcement bodies and a court of law assumes were intended to be included in a contract even if they are not expressly stated. This is because they are, in the main, obvious to both parties to the contract.

Under the Consumer Rights Act 2015, services must be carried out with reasonable care and skill.

In addition, products must be of satisfactory quality, correspond to any description and be fit for purpose.

For example, a householder who has a consumer unit replaced by a registered electrical contractor would expect the product and the installation to be fit for its purpose, even though it may not be expressly set out in the contract.

EXPRESS TERMS:

These are terms that are expressly stated in the contract. Express terms would typically include price, scope of works, timeframes and materials etc.

Any information, whether, it is discussed or written will form part of the contract. This means that any information you give to a customer could form part of your contract with them.

Example:

This could include any details you give to your clients about performance ratings of products, such as a supplier's written specifications or discussions about who will be responsible for discarding and removing rubbish from a site.

Are you a contracting party?

It is important to remember that a householder's contract will be with the appointed electrical contractor and not with a manufacturer and not with a sub-contractor that has undertaken work on behalf of an electrical business. The person who is paid is generally the person who forms the contract with the consumer.



This is important because notwithstanding the origin of an issue, the electrical contractor / trader will be responsible under the contract to perform any remedies arising out of breach of contract.

Example:

An electrical contractor supplies light fittings in a domestic dwelling, which has a manufacturer's warranty. If the fittings are defective, the contractor may still be responsible for any remedy, even if that manufacturer's warranty has expired.

Whilst a practical response would be to direct the customer back to the manufacturer, legally this may not always be an appropriate course of action.

What is the consumer entitled to?

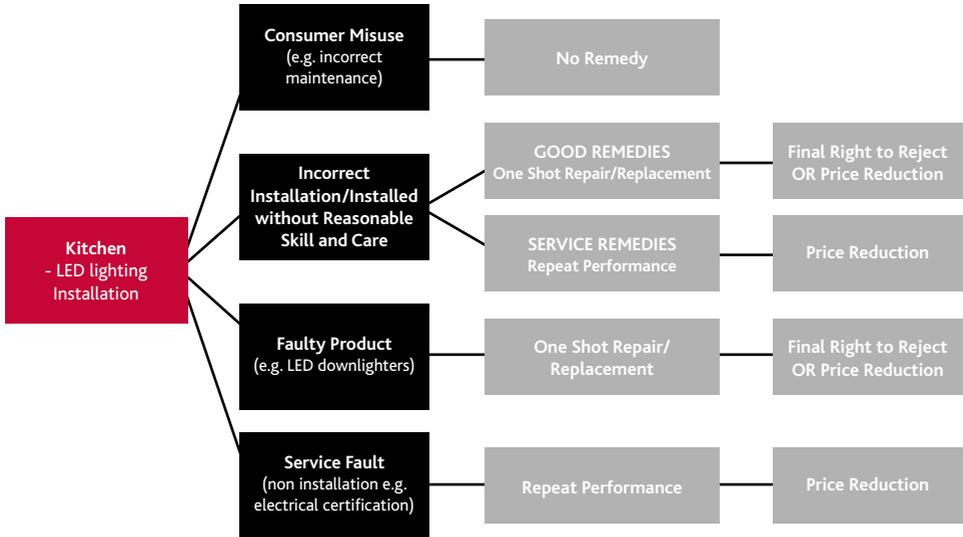
A consumer is entitled to a remedy where there has been a breach of an 'express' or an 'implied' term.

Services: Where services, such as electrical installation services are being provided, the most appropriate remedy in a dispute will usually be repeat performance or, where this cannot be carried out in timely manner and without significant inconvenience to a consumer, a price reduction (which could be up to 100%).

Products and Services: Where electrical products are installed and have been installed incorrectly or without reasonable care and skill, the consumer can elect to choose either repeat performance, price reduction or other remedies which relate to goods. This is an important choice as the 'goods remedies' only give the trader one opportunity to put the issue right before the consumer is entitled to a full refund, part refund or a price reduction.

Example:

Here is a useful diagram to illustrate how this may work in practice:



How long are you liable?

An electrical contractor operating in England, Wales and Northern Ireland will be responsible in contract for 6 years from the date of delivery or installation (or 5 years from the discovery of the fault in Scotland).

This does not necessarily mean that the householder would be entitled to a full refund for this time - the law allows you to take the period of use into account, and a consumer is only entitled to a remedy if there is an issue with the service or the electrical products for which you could be held liable.



Example:

An electrical contractor supplies a householder with new electrical accessories (light switches and power sockets), which come with a two year manufacturer's warranty. There will still be a contractual obligation on the electrical contractor, in the event of a confirmed fault even after the warranty has expired.

From a practical point of view the best placed organisation to ascertain whether there is a manufacturing fault may be the manufacturer itself. However if this is proven after their warranty has lapsed, the electrical contractor would still be responsible to provide the appropriate remedy. This may involve paying the manufacturer to carry out the repair or paying a partial refund to the householder - which is allowed to take 'usage' into account.

There may be costs in any manufacturer's inspection and it would be advisable to agree with the consumer who will bear the cost of this before the inspection takes place.

PRACTICAL STEPS:

Making sure both parties know their rights and responsibilities is crucial to ensuring the smooth running of an electrical installation project. Whether you are a project manager or a sub-contractor, knowing your obligations and the scope of works you are to complete is vital.

Ensure this is documented and that any variations are agreed in writing to assist you in managing any claims which may arise in the future.

By making sure you are aware of your legal obligations and the consumer's entitlement if anything goes wrong, you will be better able to manage any disputes and demonstrate your commitment to fair dealing with your customers.

FURTHER INFORMATION:

Call **020 7042 6493** or visit disputeresolutionombudsman.org to find out more about the legal support and alternative dispute resolution services available from the Dispute Resolution Ombudsman (DRO).

ABOUT DRO

DRO is a not-for-profit, government approved Alternative Dispute Resolution provider. It aims to raise standards in the general retail and home improvement industries.

DRO is also a founding member of the Consumer Protection Alliance (along with ELECSA, NICEIC, Gas Safe Register and Which? Trusted Traders), which aims to inform, educate and alert householders about staying safe at home.

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