CONSUMER COMPLAINT PROCESS

NOTE: This document is not a substitute for legal advice.

Step 1- What you should know before you begin:

Refund and Exchange Policies

The only case where a consumer has the absolute right to a return is when there is a defect in the product. Most merchants have refund and exchange policies. **Always ask about the refund or exchange policy before you buy.**

Many businesses, service providers and retailers only accept returns and exchanges for a specific period after a purchase, so it is important to return a defective or unsatisfactory product before the deadline.

Personal items, such as earrings, bathing suits, underwear, and mattresses may be **final sales** (they cannot be returned or exchanged) or have extremely limited exchange and return policies.

Copyright protected items, such as computer software, may be exempted from refund and exchange policies if packages are opened.

Item Goes on Sale After a Purchase

Unless it is store policy, merchants are under no obligation to refund customers the price difference if an item goes on sale after a purchase.

Some merchants may have a price guarantee policy that outlines how a customer can get the sale price if an item goes on sale after a purchase.

Some retailers will give "rainchecks" to customers which allow them to return at a later date and get a sale price of a product that is out of stock.

Be Aware of Contract Terms Before Complaining

Your rights and responsibilities may depend on several federal and provincial/territorial laws and may be laid out in your agreements or contracts with the business, service provider or retailer.

Always review a contract or agreement carefully to ensure that you understand its terms and conditions before signing it. Check the contract before contacting a business or service provider and lodging a complaint.

Contract Cancellations

A contract can take many forms, such as an oral or written agreement. All are equally valid. Getting out of a contract is a very difficult thing, but it can be done in limited circumstances, if:

- both parties could agree to end the contract
- the contract lists the ways in which it can be cancelled
- it is covered by an automatic cooling off period. In some provinces, **"cooling off periods"** exist for some credit contracts for dating clubs, health clubs, and door-to-door sales, which allow you to cancel the agreement within a set period of time after the contract has been signed.

Cancelling a contract without mutual agreement, or without cause, may end up being more expensive than fulfilling the original contract.

Defective Products

Obviously, consumer goods cannot last a lifetime, but they should work as promised under normal use when purchased. Most consumer goods carry a time limited guarantee.

If the product is defective you can ask:

1. that the product be repaired;
2. if it cannot be repaired, that it be replaced; or,
3. if the product cannot be repaired or replaced, that a refund be provided.

Private Sales

A private seller may offer a given product at a lower price and may be able to provide first-hand knowledge of its history.

It may be difficult to get compensation from a private seller if problems arise, since private sale contracts are not subject to consumer legislation.

Liens

A lien is a legal claim or a "hold" on some type of property, usually due to it being used to secure a loan or services. Always check for liens against a product, especially when buying higher value items such as a car or boat from a private individual. Generally, ownership of a property with a lien cannot be transferred until the debt is paid.

Step 2- Be Prepared:

Good preparation will help you present your complaint in a clear, concise, and factual way. Follow these guidelines:

Keep your complaint information in a file and store it safely. Keep it available so you can explain your complaint accurately.

Your file may include:

- sales receipts
- contracts
- order forms
- letters to and from the company
- repair and/or service information
- cancelled cheques
- your list of the company representatives with whom you spoke, when you spoke to them, and key points discussed
- other information you consider important to your case

Step 3- Contact the Business:

- **Practice** explaining the problem to yourself a few times before contacting the service provider, business or merchant. Remember: clear, precise and brief explanations will help your case.
- **Be polite.** It can get you better, and possibly quicker, results.
- **Stay calm and carry on.** Don't resort to anger and threats.

When you call or visit the business, remember to:

- Ask if they have a customer service section that handles after purchase/service issues. Request a complaint reference number and be sure to ask the company to update your complaint file when you provide new information.
- Write down the name, position, and, if available, the employee number of staff with whom you are dealing. Keep brief dated notes of key points discussed.

Three tips to effective complaint resolution are:

1. **Clearly, concisely and factually explain the problem.** For example:
   - the product received was not the one you ordered: it is the wrong size, the wrong colour, or a different model than the one you bought
   - the product you received was damaged in transport or during delivery
   - the product does not perform as advertised

2. **Emphasize your desire to solve the problem and have a positive relationship with the business.** For example:
   - You have been a repeat customer of the business and you have been satisfied with the service until now. You would like to solve this issue so that relationship can continue.
   - You are a new customer of the business and you don't feel this is a good way to start a relationship that could be a long-term, positive one for you and the business.

3. **Be ready to propose a solution to the business that will resolve your complaint.**
   - Most reputable businesses will listen to a customer who has had a problem and who proposes a reasonable solution to resolve it.

Step 4- Put it in writing:

If your first attempt doesn't resolve your complaint, then write a letter or email to the general manager, president or owner. (See sample at the end of this document)

Step 5- Need to take your complaint further?

If your complaint hasn't been satisfactorily resolved after following Steps 1 to 4, there may be a federal, provincial or territorial regulator who could handle your complaint if it falls within their mandate.

Your next step is to see if there's a national complaint handling body that can help.

A range of other regulatory bodies may be able to provide further assistance in resolving your dispute. Please contact the Consumer Services branch directly and we will attempt to assist you in determining the appropriate contact.

Consumer Affairs, Nunavut contact details:

Call toll free at 866-223-8139 or email consumerprotection@gov.nu.ca

Step 6- Going to Court:

Legal action may resolve the complaint and is the last step. Small claims court and less frequently, class action lawsuits, are two possible options. If, instead, you decide to sue, act within the time limitations for filing a lawsuit. Consider the costs and benefits and seek legal advice.

Small Claims Court

- A relatively simple and less expensive way to resolve disputes than many court proceedings.
- The maximum monetary dollar limit of claims varies by province or territory. Check the monetary limit in your province or territory and whether the subject of your case can be heard before that court.
- There may be a fee to file a claim, plus additional costs may be applied for serving orders, payments to witnesses and travel expenses.
- You do not need a lawyer to go to small claims court.
- Small claims courts allow each side to explain their story and do not expect consumers to know legal technicalities.

Class Action Suits

Individuals who have suffered similar losses or injuries, from time to time, band together to form a class action suit to recover damages and share the legal costs.

- Class actions are available in most jurisdictions in Canada.
- A class action is a potentially complex legal procedure that may take several years to conclude.
- Consider the costs and benefits of a class action, seek legal advice and read about it before you join one.

<Sample Complaint Letter>

(Your Address)
(Your City, Province or Territory, Postal Code)
(Your Email Address, if you have an email address where you can be contacted)

(Date)
(Name of contact person, if vailable)
(Title, if available)
(Consumer Complaint Division, when you have no contact person) (Company name)
(Street address)
(City, province or territory, postal code)

Dear *(Contact Person)*:
Re: *(account number, if applicable)*:

On *(date)*, I *(bought, leased, rented or had repaired)* a *(name of the product with serial or model number or service performed)* at *(location)*.

Unfortunately, your product has not performed well *(or the service was inadequate)*. I am disappointed because (*explain the problem: for example, the product does not work properly, the service was not performed correctly, I was billed the wrong amount, something was not disclosed clearly or was misrepresented at the time of sale*).

To resolve the problem, I would appreciate (*state the specific action you would like: money back, store credit, repair or exchange, for example*). Enclosed are copies *(do not send originals)* of my records *(include receipts, guarantees, warranties, cancelled cheques, contracts, and any other documents associated with the purchase)*.

I look forward to your reply and to your resolving my problem, and will wait until *(set a time limit: usually 10 working days is sufficient)* before seeking help from a consumer protection agency or filing a complaint with the Better Business Bureau. Please contact me at the above address or by telephone at *(home and/or office number with area codes)*

Sincerely
(your name)

Enclosure(s)
cc: *(indicate who will receive a copy of this letter, e.g., product manufacturer)*