

Supplier has gone out of business

If the **supplier** of the goods or services has gone **out of business**, the action you can take will depend on whether the supplier was a **limited company**, an individual (**sole trader**) or a **partnership**. If you have a guarantee, you may find it easier to claim under the guarantee.

If you made any payments such as a deposit by credit card, or by credit arranged with the supplier, and the cost of the goods or services in dispute is more than £100 and less than £30, 000, the credit company may be **equally liable**. This will not usually apply if payment was made with a debit card such as switch or delta, where the money comes directly from your bank account. However, a Visa debit card is covered by Visa's debit card chargeback scheme which allows you to claim money back if goods do not arrive or if they are damaged.

Sole trader/partnership

If you were dealing with a sole trader or a partnership, they remain liable even if they have ceased trading. You should continue to negotiate with the owner or partner and could consider suing for compensation if your negotiations fail. If you no longer have contact details for them, Consumer Direct may be able to help. You can phone them on 0845 404 0506. Before you take court action, you will need to find out whether the trader is able to pay. If the trader has gone personally bankrupt, there would be no point in pursuing them through the courts. You can check if someone is bankrupt by going to www.bis.gov.uk/insolvency and clicking on the Individual Insolvency Register.

If you have already lost money on faulty goods or services, it is not worth losing more money on suing someone who cannot pay.

Limited company

If the supplier is a limited company, it may have gone into **administration** or **liquidation**.

Administration

If a limited company goes into administration, an **administrator** is appointed. This legal procedure gives the company a break from having to deal with people they owe money to. The administrator will see if the company can be rescued or sold as a going concern as an alternative to going bust.

Liquidation

A limited company may go into **voluntary** liquidation following a shareholders' decision that the company is no longer solvent, or go into liquidation because of a court order. Once in liquidation, a **liquidator** will be appointed to collect and redistribute all the company's assets using the rules set out in the insolvency laws. This is known as **winding up**. Once the winding up is complete, the liquidator sends the final accounts to the **Registrar of Companies** and the company is considered to be **dissolved** (gone out of business) three months later.

Is the supplier in administration or liquidation?

You may be able to find out whether a supplier is in administration or liquidation and details of the administrator or liquidator from one of the following sources:

- Consumer Direct on: 0845 404 0506
- a local traders' association or chamber of commerce
- a trade association (if the trader was a member)
- Companies House. You can telephone the contact centre on: 0303 1234 500 or visit the website on www.companieshouse.co.uk You can obtain basic information on the company (like whether it has gone into liquidation) free of charge
- local firms of accountants or solicitors who deal with administrations
- the local Official Receiver's office. You should find the number in the telephone directory or through directory enquiries

Administration and liquidation are the most common legal procedures if a company has gone out of business but there are other legal procedures that could have happened. If the company you were dealing with is not in administration or liquidation, you will need to consult an experienced adviser, for example, at your local Citizens Advice Bureau.

How to solve your problem

When a company is in administration or liquidation, you will have to negotiate with the administrator or liquidator to solve the problems below:

Return of deposit

If you have paid a deposit for goods that are not delivered or services that are not carried out because an administrator or liquidator has been appointed, you are entitled to ask for your deposit returned. You should write to the administrator or liquidator enclosing proof such as a receipt, cheque stub or credit card voucher and keep a copy of your letter. However, you will only get your deposit back if the company has enough assets to pay you, which could be unlikely.

Delivery of goods ordered

If the goods you ordered have been **earmarked** for you by the supplier (for example, they have placed your name on them), you are entitled to have them and should contact the administrator or liquidator to prevent them from being sold. If not, you may be able to negotiate with the administrator or receiver to sell you the goods, but you can't insist that this happens. If the company goes into liquidation, the liquidator may have to sell the goods to raise sufficient money to pay the priority creditors. However, they will sell you the goods if they are still available once the priority creditors have been paid. You are unlikely to be given a **guarantee**, but may wish to accept the goods and pay the balance, if they are covered by a manufacturer's guarantee.

Work not carried out

If the company has gone into **administration**, you may be able to have any work it was doing completed. You should contact the administrator to see if this is possible, but cannot insist that this happens.

Should the company go into **liquidation**, the receiver will not be able to guarantee the work and you will have to decide whether to have the work done without a guarantee, or lose your deposit. You may be able to negotiate a reduction in price to compensate you for the inconvenience and loss of a guarantee. You can only claim compensation for breach of contract once the secured creditors have been paid in full. If the company is in liquidation, you can make a claim for compensation but you can't insist that work be carried out. If the company is a member of a trade association, it may have a deposit protection scheme that allows for the work to be completed by another of its members

Unsatisfactory goods or services

If the company is in **administration** and goods or services are faulty, the administrator may arrange for the fault to be put right, for example, have the goods repaired or the work remedied or completed. You should contact the administrator to see if this is possible, but cannot insist. If the administrator refuses, you will find it difficult to enforce your rights, as there are unlikely to be sufficient assets to pay compensation. If the company has been sold as a going concern, you will have to negotiate with the new owner, who will take over the company's assets but not its liabilities. You cannot enforce a guarantee or maintenance agreement but the new owner may agree to honour the guarantee or agreement if it appears beneficial to do so.

If a company has gone into **liquidation**, you cannot insist that the liquidator sort out your problem. You should make a claim for compensation which will only be met if there are assets left after the priority creditors have been paid in full. If the company is a member of a trade association, it may have a bonding scheme that covers you for this situation. For example, the Association of British Travel Agents will repatriate stranded travellers if their travel agency goes into liquidation.

Goods held by the company

If your goods are being held by a company, for example awaiting a repair, you have a right to have them returned. You should write to the administrator or liquidator asking for their immediate return and for an undertaking that they will be kept safe until returned.

Other fact sheets that may be helpful

- Starting court action
- Guarantees
- Credit
- Goods
- Services

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This fact sheet was last updated on 5 September 2011, and is reviewed regularly. If it is some time since you obtained this fact sheet, please contact your local Citizens Advice Bureau to check if it is still correct. Or visit our website - www.adviceguide.org.uk - where you can download an up-to-date copy.