

THINKING ABOUT BUYING A HORSE? - KNOW YOUR RIGHTS

By Alison Davies

We all know how exciting it is to buy a new horse, however it is very easy to lose sight of your initial plan to buy that 'safe, sound schoolmaster' and instead find yourself falling in love with a totally unsuitable mount.

What can you do when the schoolmaster turns into a raving lunatic as soon as you drop the trailer ramp at home, or the 'advanced eventer' that will not go anywhere near a puddle let alone a water jump? Is your only option to write it off as a bad decision or do you have the right to take it back to its previous owner and demand a refund?

In law domestic animals, such as horses, are treated as goods and chattels for sale purposes, and therefore the ordinary law relating to the sale of goods applies.

However the law is not straightforward and your rights depend on whom you bought the horse from. Was it a private individual or a dealer who sells horses in the course of his business?

When you buy a horse from a private individual the law 'caveat emptor' or 'buyer beware' applies. This means that the buyer must accept the animal as he finds it and he has no redress to the seller if the horse is not what he expected.

Your only right to go back to the seller, should things go wrong, will be if you can prove that the seller knew, or ought to have known, about the problem when they sold you the horse. Such legal actions can be costly and difficult to prove.

The best way to protect yourself when buying a horse privately is to ask the seller to put into writing anything they tell you about the horse that you are going to rely upon. For example, if you want the horse for hacking, make sure the seller puts in writing that the horse is an experienced hacker that is not afraid of cars. Written representations will then provide a clearer basis for any potential legal action, rather than just having to rely upon their word against yours.

The Sale of Goods Act 1979 sets out a number of conditions, outlined below, that every seller, be they a private individual or commercial dealer, has to abide by.

1. The seller has the right to sell i.e. the seller owns the horse, or has the permission of the owner to sell it.
2. If the horse is described, verbally or in writing, then the animal must correspond with that description.

However if you buy a horse from a dealer there are a number of additional legal safeguards that you can also rely upon.

If the seller is a dealer he has to ensure that the horse is of satisfactory quality. A horse would be of 'satisfactory quality,' if it met the standard that a reasonable person would regard as satisfactory, taking into account the animal's description, the price and all the relevant circumstances.

A buyer cannot rely upon the quality argument if a problem later appears which was specifically drawn to the buyer's attention before the horse was sold. For example, if a buyer said they wanted a horse for dressage and the seller said they were not sure how suitable the horse would be for dressage because of a particular problem or characteristic of the horse then no redress could be had to the Seller if the horse is later unable to perform dressage movements. It is becoming more usual these days for a horse purchased from a dealer to be offered to a buyer for a trial period. If this were the case the onus is on the buyer to "test" the horse thoroughly during this period in areas that are important to them, otherwise they would have no later redress under the quality argument, since the Seller is providing the Buyer with ample opportunity to try the horse and discover any defects or problems that the horse has with carrying out tasks they require of it, prior to completing the purchase.

To support your case it is vital that sellers tell a dealer what they want the horse to be able to do i.e. to be ridden on roads by a 10-year-old novice rider, to jump, to perform dressage etc.

Despite the further protection offered to people buying a horse from a commercial dealer you must still bear in mind that horses are animals that react differently to different surroundings and people, that no one can reasonably be expected to be held liable for their behaviour at all times.

Most sellers, both private and commercial, are genuine and keen to ensure that their horse is sold to the correct home, therefore your first point of contact should anything go wrong should always be the seller who may offer an explanation for the behaviour, help or a refund without the need to consult a solicitor.

Alison Davies, works for Cheltenham-based Rickerbys solicitors where she specialises in resolving equine disputes. An experienced horsewoman, who has ridden since the age of four, Alison currently owns two horses and has first hand experience of buying and selling.