

LEGAL HE'S NOT WHAT WAS ADVERTISED

Q *I bought a pony for my three children to share. I was told he was suitable for novice riders, but he won't hack out alone - he gets very nappy and rears which is not good with a five-year-old on board. The dealer keeps saying she hasn't got room to take him back. Can I take her to court?*



Hanna Campbell says

It appears you potentially have a case for misrepresentation. I note the dealer portrayed the horse as a novice ride but you don't say if you have evidence of this in the form of an advertisement or the like. If you don't, a witness statement from you, stating you

wouldn't have bought a pony who wasn't represented as being safe for novice riders, may well be enough to convince the court that you were led to believe that the pony was suitable.

The basic rule in English law is caveat emptor - let the buyer beware. It's the purchaser's job to exercise due diligence and ensure he's getting what he's paying

for. However the seller is not entitled to misrepresent, in this case, the pony, to achieve a sale.

In relation to taking the dealer to court the majority of claims settle out of court so hopefully a court hearing wouldn't be necessary. You don't state the value of the pony - if you paid in excess of £5,000 you would be able to instruct a solicitor on a no-win no-fee basis providing the solicitor deemed you have above a 50% prospect of success. If the claim was successful you would be entitled to keep 100% of your compensation and the solicitor would recover his/her costs from the other side. If you were unsuccessful, the solicitor would write off his/her costs and you pay nothing.

If you paid less than £5,000, the solicitor wouldn't be entitled to recover his/her costs from the other side so you may wish to pursue the matter yourself through the small claims court rather than paying a solicitor.

If you have home contents insurance you may have free legal expense cover which means that, providing the panel firm of solicitors informs the insurer you have above 50% prospects of success, they'll act for you for free even if your loss is not above £5,000.



Buyer beware - but written evidence will help a case for misrepresentation