

What are your rights if a cloakroom loses your coat?

It's that time of year again: who's responsible for your items if the coat check loses or damages them?

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Friday 4 December 2015 11.16 GMT

It's cold outside and the Christmas party season is getting into gear – prime time for using a cloakroom when you go out and about. And it's not just hotels, party venues and restaurants that offer to mind your things: if you're Christmas shopping and don't want to carry all of your bags, you can pay to leave them at places like Selfridges and Westfield shopping centres, with charges of up to £8 a time depending on what you're leaving.

But when it comes to the crunch, if something's lost or damaged, who's responsible for your things?

A lot depends on whether you're paying for the service, according to Prof Margaret Griffiths, a consumer law specialist. "When you pay for a service, like a cloakroom service, under consumer law, you enter into a contract with the provider, which means they're required to take reasonable care of your goods and perform the service with reasonable care and skill," she says.

So for your part, you can expect your belongings to be "safe, looked after, and not given away without the right ticket".

Under legislation passed nearly 60 years ago, the law was such that venues had automatic responsibility for customers' belongings.

However, some places still try to waive any responsibility for loss or damage by sticking up disclaimer signs stating that items are left at the owner's own risk.

The good news for consumers is that, while these signs may once have had legal standing; this may no longer be the case.

Jonathan Silverman, a senior partner with law firm Silverman Sherliker said that, under Unfair Contract Terms 1980 legislation, "it can be deemed an unfair term to say you accept no liability".

So if you're given the wrong coat, it's damaged or even lost, you may have a case for compensation, according to Griffiths, although in reality "it could be difficult to prove exactly what the item was like or what's missing if something's gone from a bag".

Security measures can differ according to the venue; some places keep cloakrooms locked and also have CCTV installed, but if there's a problem Griffiths says the rule is always to act immediately.

"You should complain there and then to the person in charge," she says, and follow this up by writing to the company concerned, as "any reputable company will recognise the fact there's a problem and want to sort it out".

If all else fails, you could take a trip to the small claims court to recover any losses. This can incur charges. A court fee is payable when you make your claim, which is based on a sliding scale depending how much you're claiming. For claims up to £300 it's £25 to initiate a claim online (£35 if sending the form to the court centre), and for claims up to £500 it's £35 when initiating the claim online (or £50 if sending the form). If you are successful you will get your court fees back, but if the other party still doesn't pay up, you may have to "enforce a judgment", which can incur further costs of at least £150.

If, on the other hand, you leave items at a free cloakroom service, the person accepting the goods, "must not be negligent with them" but there are no contractual rights, according to Griffiths.

If you just leave your jacket on a coat rack in a crowded restaurant, "realistically you do so at your own risk", she said. If it's a venue hired by your company and a proper cloakroom service is being offered, you should take up any claim for loss or damage with your company, as it's them who will have paid for the venue and have the contract with the service.

Is it worth claiming on your home policy?

If you've got personal possessions cover as part of your home insurance, you could make a claim for any loss if the venue won't pay up.

However, this wouldn't be worth considering unless your loss was substantial, as Selwyn Fernandes, managing director of LV= Insurance explained. While you would be covered for items left, lost or stolen from a cloakroom, aside from any excess, "there would be an impact on your policy as a result of making a claim". The excess is the amount you have to pay if you make a claim on your insurance and is usually at least £50.

Left something behind?

And if in the excitement of the Christmas party, you forget to pick up your coat on the way out, can you still expect it back? "Yes," said Silverman. While there's no statutory time limit in place, it's all about what is reasonable, so a venue should wait at least three months before disposing of any items. If the venue is going to rely upon the right to get rid of any unclaimed belongings, it should bring this to your attention before you hand your goods over. And if you're paying for the service, this forms part of the contract.

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