

Legal Compliance for Websites

This guidance is an overview of the factors to ensure your website is legally compliant.

Companies Act

The Companies Act 2006 requires that all companies place the following information on websites (and in fact all electronic communications):

- Company name;
- Company registration number;
- Place of registration; and
- Registered office address.

There are also other more specific requirements, in the case of a limited company exempt from using the word “limited” as part of its name you must disclose that. Additionally, if you operate a community interest company which is not a public company you must disclose the fact that it is a limited company. If your company is an investment company you must also make this clear.

Terms of Use

Terms of Use are an essential requirement. They set out the basis on which your website may be accessed and used. A website’s terms of use should cover areas like:

- Licence to use extracts;
- Suspension of website service from time to time;
- Registration requirements and acceptable use policy (if applicable); and
- Disclaimers and liability limitations.

For English based websites the terms of use should be governed by the laws of England & Wales.

Data Protection / Privacy Policy

You will collect personal data on your website through things like email links, user account information and no doubt cookies and flash objects. You must have a data protection (or privacy policy) on your website to address all the requirements of the Data Protection Act, 1998.

It is common practice to link a privacy policy into the website’s terms and conditions.

Breaches of data protection law can result in criminal sanctions or liability for damages. At the very least breaches create a huge amount of negative publicity. This highlights the importance of complying with data protection law.

E-Commerce Directive

The E-Commerce Directive requires further information on a website in addition to the other obligations outlined above the following are relevant:

- Your contact details, including your email address.
- If the company is a member of a trade or professional association, membership details, including any registration number should be provided.
- If the company has a VAT number, this should be stated.

These must be set out in a clear, comprehensible and unambiguous manner as well as being displayed at the point of the buyer reviewing any purchases from the site.

Additionally, to comply with the Directive you must:

- Acknowledge receipt of an order received by a customer without delay and by electronic means. It is important to differentiate between an acknowledgement of receipt to confirming that you have the order in stock and when it will be dispatched.
- If you are not selling the items directly, but instead are acting on behalf of the seller then it is important that you make this relationship clear and that you disclaim all liability for any breach of contract or breach of statutory warranty by the seller.
- Ensure that any electronic communications sent state on whose behalf the communication is being sent.

Breach of the E-Commerce Directive could lead to you facing legal action from consumers or, the Office of Fair Trading.

Terms of Sale

Terms of Sale are different to Terms of Use. A consumer must accept Terms of Sale before purchasing goods or services online. You should ensure that the sets of terms reflect one another and do not contain any contradictions. Practically, you should ensure that the consumer accepts the terms and conditions by requiring the consumer to confirm that they have read and accept the terms of sale and understand that the contract will be governed by them; normally this is done by a consumer placing a tick in a box.

If selling goods online you should consider:

- Complying with any laws relating to the products that they supply;
- If operators decide to distribute outside the UK then compliance with other jurisdictions laws on the supply of products (such as alcohol) will need to be carefully considered. Additionally, there are circumstances which could mean that a consumer based abroad is given protection by their country's consumer protection legislation which may clash with your terms and conditions of sale;
- You should have a refunds policy.
 - If the buyer returns a product during the "cooling off" period (7 working days) then unless you state otherwise in your terms and conditions of sale you will also have to refund the costs of returning the goods.
 - If you provide the consumer with substitute or defective goods you will be responsible for the return costs.
- It is also worth noting that the cooling off period is extended if you fail to provide particular information, such as contact details on your website.

Distance Selling

The Regulations are designed to offer consumer protection and apply to websites offering goods for sale. You are required to give further information such as:

- A description of the main characteristics of the goods or services offered;
- The price of the goods or services including all taxes;
- The costs of delivery; and
- A notice that the customer can cancel the contract without cause during a 7 day cooling off period.

Full contact details which allow you to be contacted quickly, including an email address must be clear and easily accessible.

Failure to provide this information prior to the conclusion of the contract extends the standard cancellation period of 7 working days by up to three months. Alternatively, persistent failure to provide it can result in the Office of Fair Trading making an application to the courts for an enforcement order to stop the website trading.

Photographic Copyright

The default position is that the photographer owns the copyright in their photographs. If you intend to use someone else's photographs it is wise to ask the photographer to transfer ownership of the copyright to you. We can prepare a short transfer document for you.

Try to avoid shared copyright if at all possible, as it is difficult to administer and control. However, if this is unavoidable or the photographer is unwilling to transfer the copyright to you then please discuss this further with one of our team who advise you.

Contact Details

Barlow Robbins LLP
Concord House
165 Church Street East
Woking
Surrey
GU21 6HJ

Nick Phillips – Partner and Head of Department

 01483 748583

 nickphillips@barlowrobbins.com

Brett Farrell – Associate

 01483 748584

 brettfarrell@barlowrobbins.com