businesscompanion
trading standards law explained

Introduction

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In this guide, the words 'must' or 'must not' are used where there is a legal requirement to do (or not do) something. The word 'should' is used where there is established legal guidance or best practice that is likely to help you avoid breaking the law.

Background

Purchasing a holiday caravan / holiday lodge is a significant purchase for many owners. It is important that they are clear about what they are buying into, realising their responsibilities, as well as limitations placed upon the asset that they have purchased, and specifically when and how often they can use their new asset. It is in your interest, as well as the owner's, that they understand the contract they have agreed to, and that they are treated fairly by you during the lifetime of their contract.

The contracts for purchasing and siting a holiday caravan / holiday lodge are unique to your sector and, therefore, owners may not be familiar with the detailed implications. This means that an owner may not have the freedom that they expected over how they use and treat their new asset. Such rules may only be enforced on your holiday park when they are fair, clearly explained and you follow consumer legislation.

There is legislation that ensures owners have the information that they need to make an informed decision whether to buy, or not, and about matters that arise before, during and after their contract with you. Owners must not be given misleading information, and important information that they need to know must not be kept from them or hidden away. They must not be put under pressure to make a quick decision, and the needs of vulnerable owners must always be considered.

Holiday caravans / holiday lodges are sometimes referred to as 'static caravans' or 'caravan holiday homes'. For the sake of brevity, this guide will use the inclusive term 'holiday caravan / lodge'.

About this guide

This guide sets out how consumer law could apply to businesses owning and/or operating holiday parks selling holiday caravans / lodges for private ownership. The guide does not apply to residential parks covered by the Mobile Homes Act 1983. It is based upon our knowledge of your sector and will apply the law in practical terms, including situations that we think are more likely or less likely to breach the law. Application of the law will depend upon the actual situation and, therefore, we can only describe the law. This guide does not constitute legal advice. The guide is addressed to holiday park owners and operators, who we will address as 'you' or 'your' throughout.

The first two parts concern contract law and fair-trading legislation. Although we will include some practical application, the primary purpose of these two parts is to set a scene. We will then provide guidance on how we think the law might apply to your business, from marketing to the ending of the licence agreement to site a holiday caravan / lodge on a holiday pitch on your holiday park.

The guide will only apply to your dealings and contracts with 'consumers' (a 'consumer' is defined in the Consumer Rights Act 2015 as "an individual acting for purposes that are wholly or mainly outside that individual's trade, business, craft or profession"). This will include consumers who may, through an agreement with you or through another arrangement (for example, a short-term hire) allow others to use their holiday caravan / lodge for holiday use.

For the rest of this guide, we will refer to the consumer who owns a holiday caravan / lodge pitched on your holiday park, or who is potentially going to buy one, as 'the owner' or 'prospective owner'.

This guide consists of four parts:

- Contract law and unfair terms
- Fair-trading law
- Sales, marketing and entry into contracts
- Dealing with holiday caravan / lodge owners

Vulnerable owners

It is important that you, as a holiday park owner, are aware of your additional responsibilities towards vulnerable owners. We can all experience vulnerability during our lives. Sometimes this may be due to our physical or mental health, but it may also be caused by difficult periods in our life, such as bereavement or divorce.

The market context may also make us vulnerable. As owners, the chance to fulfil our dream and buy our holiday caravan / lodge may lead us to not pay attention to the detail of what we are signing up for.

A vulnerable owner may need help or a different communication method to make the right decision. It is important that you take this into account in your communications and when training your staff. Ideally, you should have a vulnerable owner policy.

Detailed guidance can be found in Business Companion's 'Consumer vulnerability' guidance.

Further guidance

In addition to this sector-specific guidance, we will also refer you to other general guidance on the Business Companion site. This will provide greater detail, beyond what we have decided to include in this guide.
We cannot tell you how to run your business, we can only guide you as to practices that are more likely or

less likely to comply with the law. Best practice guidance can be obtained from the two trade associations in your sector. Their contact details are given below:

- British Holiday and Home Parks Association - enquiries@bhhpa.org.uk
- National Caravan Council - info@thencc.org.uk

These two trade associations also offer model contract documentation. We have not reviewed these model contracts, and their use does not guarantee that the contracts individual park owners enter into with owners are fair. Park owners wishing to use such model contracts must ensure that the terms are relevant and proportionate to their particular circumstances. Park owners must satisfy themselves that all the terms are fair and in accordance with consumer legislation.

Your local authority Trading Standards service may also be able to offer you advice and guidance on the law.

> Part 1. Contract law and unfair terms

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