

businesscompanion

trading standards law explained

Part 3. Sales, marketing and entry into contracts

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Putting it into practice

In this third part of the guidance, we will look in more practical terms at how the law affects your business activities. Prospective owners will need clear information to make an informed decision whether to buy a holiday caravan / lodge from you. The information that you provide should neither mislead them by what you say, nor by what you don't say, nor by how it is presented. Prospective owners should not be subject to pressure selling, which can force them to take a decision that they may not have taken if they had been given time to think through their options properly.

As you will have seen in part 2, the Consumer Protection from Unfair Trading Regulations 2008 (CPRs) will be the principal piece of legislation that we will refer to. Remember that breaching these Regulations is a criminal offence; if a new owner has been subject to a misleading or aggressive practice it could give them the right, within 90 days of purchase, to unwind their contract with you.

The CPRs prohibit five types of unfair commercial practice:

- trading with a lack of professional diligence
- misleading information
- misleading by omission
- aggressive practices
- banned practices

We will apply the CPRs to your sales and marketing information and also to the process of signing a contract with a new owner. Matters that may arise during the lifetime of your dealings with your owner will be covered in part 4.

Sales and marketing information

Your sales and marketing information may take many forms:

- what your staff say to prospective owners or owners

- brochures and printed material
- information on websites and social media
- signage in your park and in the wider local area
- attendance at national and local events

All of these are covered by the CPRs and this will include images as well as words. Remember you can also mislead by what you don't say, so avoiding key facts about your contract during a sales presentation (for example, regarding the prohibition on residential use) could also lead to a potential breach of the CPRs.

Information about what you are selling

What you say about the holiday caravans / lodges that you are selling must not mislead. Therefore, the following practices may be more likely to lead to a breach of the CPRs:

- inaccurate information about the holiday caravan / lodge - for example:
 - its age (if pre-owned)
 - its facilities
 - whether it is made to the residential standard (BS 3632: *Residential park homes. Specification*) or to the standard for holiday caravans for seasonal use (BS EN 1647: *Leisure accommodation vehicles. Caravan holiday homes. Habitation requirements relating to health and safety*)
- using photographs of the inside or outside of a holiday caravan / lodge that do not represent the unit on sale
- using photographs of pitches, or views from pitches, that do not fairly represent those available to owners
- using representative images that have not been labelled as such and are not genuinely representative of what is on sale
- making unsubstantiated claims that the holiday caravan / lodge is a good financial investment or a good way to make income. If these types of claim are not accurate, clear and fully explained they may be misleading
- falsely claiming that there is only one unit available or that other buyers are interested
- telling a prospective owner, at the point of sale, that you would make an offer to buy back from them by reference to the Glass's Guide price, without explaining that this would not include any additional amenity value (such as a sea view) that has been included in the sales price but may not be included in your buy-back price
- the use of certain types of so-called 'loyalty discounts'. For example, offering new owners a discount on their pitch fees, which will not apply for a subsequent owner following a private sale, and not making this clear to the new owner. This has the potential to mislead in two ways:
 - the discounted price may not be a genuine price advantage if all new owners pay the lower amount; therefore the Chartered Trading Standards Institute (CTSI) *Guidance for Traders on Pricing Practices*, which can be found in '[Providing price information](#)', should be considered if using this approach (see table below)
 - the seller and new owner may believe, from a statement in the licence agreement, that subsequent owners will be given no less favourable terms and would not expect an increase in pitch fees

Use of loyalty fees for pitch fees

More likely to comply

Discount only offered for a limited period; pitch fees return to original price at the end of this period

Less likely to comply

Discount offered to all new owners without limitation

More likely to comply

Discount only offered for a limited time during main selling season

The unavailability of the discounted price to a buyer from the new owner could mean that you are competing unfairly with the owner for the buyer and preventing the owner from exercising their right under the agreement to make a private sale at a market price. For example, if you choose to offer the discounted pitch fee to the buyer only if they agree to buy a holiday caravan / lodge directly from you, you would be undercutting the owner. It is unlikely that the owner would, at the time they are buying their holiday caravan / lodge, fully understand this risk to their rights if they decide to sell.

Less likely to comply

Discount offered throughout main selling season

Information regarding prices

Price information regarding the holiday caravan / lodge should be displayed. This information should be clear and unambiguous. Any fees that the potential owner must pay when they purchase a holiday caravan / lodge must be displayed prominently and clearly labelled as being part of the initial purchase price. Where the level of pitch fees will depend upon the pitch chosen, this must be made clear, and the potential owner must have information regarding what that actual fee will be before they commit to making a purchase. All prices should be VAT inclusive.

CTSI's *Guidance for Traders on Pricing Practices* (see '[Providing price information](#)') can be used as a source of information when planning price promotions. We will use the approach used in the CTSI guidance to consider typical promotions that you may use.

Use of price promotions

Price promotion

Price information on display in a holiday caravan

'Holiday caravans from £25,000'

'Holiday caravans from £25,000'

'Holiday lodge £125,000, including next two years' pitch fees'

More likely to comply

Display makes clear that additional costs such as pitch fees will be required to be paid. Representative examples of the pitch fees are included

Price quoted includes other compulsory charges such as pitch fees

A significant proportion of the caravans on sale are available for this price, or close to it

Information is also available regarding the level of pitch fees for the next two years, enabling the owner to understand their ongoing future commitment

Less likely to comply

No information regarding pitch fees provided

Price does not include, or refer to, other compulsory charges such as pitch fees

There are no other caravans available at the stated price and others available all have prices in excess of £75,000

No information regarding the actual pitch fee is provided

Price promotion	More likely to comply	Less likely to comply
'Holiday lodge £125,000, including free pitch fees for the next two years'	Actual selling price of holiday lodge has not been inflated to cover the pitch fee costs promotion	Lodge selling price has been inflated to cover the cost of the 'free' pitch fees.
'Was £85,000, now our end of season sale price £60,000'	Both prices relate only to the cost of the unit. Reference is made in the promotion to other compulsory charges. The unit was previously genuinely offered for sale for £85,000, in accordance with CTSI's <i>Guidance for Traders on Pricing Practices</i>	'Was' price included a pitch fee promotion. Now price does not include pitch fees

Use of was / now prices

You should consider, amongst other things, the following factors when planning a was / now promotion:

- how long was the unit on sale at the higher price compared to the period for which the price comparison was made?
- how many units were on sale at the higher price and, if you have more than one park, was the unit on sale in the park where the promotion is being run?
- how recently was the higher price offered compared to the price promotion?
- is the price a genuine selling price; have you made sales at the higher price?

After-promotion prices or introductory prices

Although you can use these types of promotion, they are likely to be considered to be misleading if the price is not increased at the end of the promotion period. You should, therefore, have a clear end date for the promotion and stick to it.

Price drops

Price drops can, potentially, be aggressive practices if they put undue pressure on a prospective owner to make an immediate decision. If a price drop is to be offered, it is less likely to be aggressive if a prospective owner has time to walk away and consider whether or not to commit. As an example, a lower price could be held open for seven days.

Avoid any form of pressure selling.

Assessing your price promotions

When you have prepared your price promotion material, take a step back and ask yourself:

- will the person who it is aimed at understand what it actually means?

- is any information that I have given false?
- even if the information is factually correct, is it likely to mislead?
- have I missed out any information that the person reading it needs to know?
- has this information been given in a way that is unclear, unintelligible, ambiguous or untimely?

Entering into contracts with owners

It is likely that a prospective owner will enter into two contracts with you:

- sales contract for the purchase of the holiday caravan / lodge
- pitch licence agreement

Quite often these are placed into a single document and accompanied by other relevant information, such as park rules and your improvements policy. It is essential that prospective owners are not overwhelmed by the information that they receive and are encouraged to read through both contracts carefully and ask questions if they are not sure. They might also wish to seek legal advice before committing to their agreements with you.

As described in part 1, your documentation should be user-friendly, clear and unambiguous. Its appearance (for example, very small closely spaced print) should not put prospective owners off from reading it properly, and it should not contain any unfair terms.

Your sales staff should have a clear and comprehensive understanding of the contract documentation and be able to answer any questions, but also refer to senior staff when they are not able to do so or are not sure.

As we indicated at the start of this part of the guidance, the CPRs will also apply to the actual sales process. This is a point where a prospective owner makes a 'transactional decision' whether to deal with your business. At no point should your sales staff mislead them, miss out key information or put them under pressure to make a purchase.

The following practices may be more likely to lead to a breach of the CPRs:

- giving unclear or incorrect information to prospective owners regarding any aspect of the agreements that they will sign
- not being clear over the rules regarding the prohibition of permanent residency, with prospective owners being given the impression that simply going on holiday for a while, whilst otherwise using their holiday caravan / lodge as their permanent residence, would suffice. Sales staff 'glossing over' these rules during their sales presentation, including by not asking to check documentation proving that the owner has a permanent residential address, may also be misleading

Trading fairly

The CPRs prohibit traders from trading with a lack of professional diligence. Your conduct would be assessed with reference to honest market practices and the general principle of good faith. Industry codes of practice, in particular those that have been approved by the [Consumer Codes Approval Scheme](#), could be a source of reference for assessing what would amount to professional diligence.

In order to trade fairly, a due diligence system (see part 2) should form part of your business operation. This could include:

- regular reviewing of contract documentation to ensure that you are not using unfair terms or misleading owners or prospective owners

- a process for reviewing and approving marketing material with clear protocols set out for your parks regarding local advertising and its approval, and how website and social media content is managed
- regular staff training on the law and the details of your contract
- re-training of staff where you have information (such as a complaint from an owner) that suggests they have not understood your contracts or their legal obligations
- keeping staff training records
- a complaints process that includes keeping records of complaints received and any actions you have taken to improve your systems and ensure compliance with your legal obligations

[**< Part 2. Fair-trading law**](#)

[**> Part 4. Dealing with holiday caravan / lodge owners**](#)

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