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.

What is a contract?

A contract is not only a written document with a signature, it can take many forms. Contracts are entered into every day, formally and informally, verbally and in writing. Whether you are entering into a large contract with a supplier, purchasing a cup of coffee at the start of your day or entering into an end-user licensing agreement to use software, these are all examples of contracts.

A contract is an agreement that gives rise to legally enforcement rights and obligations. In broad terms, this usually requires an offer, acceptance of that offer, consideration, an intention to create legal relations and sufficient certainty as to what has been agreed.

Understanding what a contract is, when you have entered into one, and what your obligations and rights are, is fundamental knowledge for all businesses. This Business in Focus guide provides an overview of contract law, as well as some key points to help you understand the importance of contracts within your business.

Why are contracts important?

Contracts set out important information about agreements that you enter into with other parties. This can include essential information, such as:

- The nature of the contract and what it is about
- The benefits, detriment and responsibilities that the parties to the contract are agreeing to
- What happens if things go wrong
- The liability of the parties to the contract, and any limits on such liability
- The legal jurisdiction that applies to the contract in the case of a dispute

Having a contract that clearly sets out the intentions of the parties can reduce the chances of unnecessary disputes and costs. It can also clearly set out your rights and responsibilities, and the obligations of consumers and other businesses that you enter into contracts with.

There are also some legal requirements that your business must comply with when entering into contracts, such as providing certain pre-contract information in consumer contracts, and ensuring that the terms of your contracts are fair. Businesses often include this information within their terms and conditions to ensure they are complying with these legal obligations, but sometimes key information has to be given particular prominence. It is also important that your advertising and sales literature accurately reflects the terms of your contracts, and highlights any points that your customers might find surprising or especially onerous.

Contracts with consumers must comply with the requirements of consumer law and contract law principles, some of which are detailed in this guide. You will also need to be aware that if you enter into contracts with consumers outside of England and Wales, such as those based in Scotland or Northern Ireland, you must ensure that your contract also complies with their laws.

Some sectors have additional laws that may affect contracts, cancellation rights, pricing, complaints or dispute resolution requirements. These can include financial services, estate agencies, letting agencies, utilities and other regulated services. If your business operates in a regulated sector, check the sector-specific rules as well as the general contract-law principles that are set out in this guide.

> Part 1. Forming a contract

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