businesscompanion
trading standards law explained

Consumer contracts

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Before you start, make sure you choose your location by using the drop-down list at the top of the page and then clicking on the arrow.

For more detailed information, please see the In-depth Guides below. Some laws are different in England, Scotland and Wales, and some are enforced differently, so the In-depth Guides provide country-specific information.

Once you've finished, make sure you look at the full range of Quick Guides to see whether there are any other areas of law that affect your business.

Consumer contracts are those between traders and consumers, and require agreement from at least two parties.

To ensure that you fulfil your legal responsibilities when selling to consumers, you need to understand a few things about consumer contract law.

What is a consumer contract?

A consumer contract is a legally binding agreement between you and the consumer concerning the sale of goods or digital content, or the supply of services (with or without goods).

Contracts can be made:

- Verbally
- In writing

- By your and the consumer's conduct ('silent contracts') - for example, the use of a self-service checkout

Elements of a contract

A legally binding consumer contract is made only when specific parts come together. Firstly, there must be an offer, which is followed by acceptance of the offer.

Other elements include 'consideration', 'intention' and 'legal capacity'.

> You can find out more about these elements in the In-depth Guides below.

Withdrawing from a contract

You have the right to withdraw from a prospective contract; in other words, you are not obliged to accept the consumer's offer.

If you made a mistake with the price in an advertisement, for example, you do not have to sell at the incorrect price unless the contract has already been made.

> You need to be careful, as the consumer may claim that they have been misled and that you are trading unfairly. You may be in breach of the law if you trade unfairly.
>
> More information can be found in the 'Fair trading' Quick Guide.

Contract terms

Terms in consumer contracts set out the agreement you have with consumers - in other words, what you agree to do and what you expect the consumer to do.

Not all contracts will have written terms; verbal contracts are equally valid, but it may be more difficult to prove what had been agreed if there is a dispute.

Your terms can appear in a number of places - for example, on the back of the contract or on your website.

Terms that are individually agreed with the consumer are called 'express terms'.

Terms that are the same across all your consumer contracts, such as payment or delivery arrangements, are called 'standard terms'.

In consumer law, some terms are automatically part of a contract for the sale of goods or the supply of

services (with or without goods). These are often called 'statutory rights'. For example, it is to be expected that goods are all of the following:

- Of satisfactory quality
- As described
- Fit for purpose

(You can find out more about these in the 'Goods' Quick Guide.)

It is also expected that services will be carried out with reasonable care and skill, within a reasonable time (if no time agreed beforehand) and at a reasonable charge (if the cost is not agreed beforehand).

(Read the Quick Guide on 'Services' for more information.)

It is against the law to try to take away a consumer's 'statutory rights' in your contract terms, on your website or brochure or through a notice in your business premises.

> Before the contract is made, you are required to give certain information to consumers who buy goods, services or digital content from you. These information requirements form part of the contract that the consumer has with you, so if you do not provide the information, the consumer can claim you have breached the contract and seek a suitable resolution.
>
> You can find more information in the 'On-premises sales', 'Off-premises sales' and 'Distance sales' Quick Guides.

Unfair contract terms

The Government department that leads on unfair terms is the Competition and Markets Authority; links to its guidance can be found in the related In-depth Guide below.

Breach of contract

If you or the consumer do not do what you agreed to do, as set out in the contract, this is called being in 'breach of contract'.

If you are in breach of contract, the consumer may be able to make a claim from you.

In cases where the consumer cancels the contract, there are circumstances where you may be able to make a claim from them.

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