

businesscompanion

trading standards law explained

Property descriptions: sale or let

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This guidance is for England

The Consumer Protection from Unfair Trading Regulations 2008 (known as the CPRs) are the Regulations that control descriptions used by estate agents and letting agents. They create criminal offences for traders that breach them. The Regulations prohibit 'misleading actions' and 'misleading omissions' that cause, or are likely to cause, the average consumer to take a transactional decision they would not have taken otherwise.

Care should be taken when using general descriptions relating to location, environment, photographs, measurements, parking and pricing. General disclaimers in small print, telling buyers not to rely on details, won't be effective in preventing offences. This also applies to information provided on your website.

The law

The CPRs prohibit misleading actions that cause, or are likely to cause, the average consumer to take a transactional decision they would not have taken otherwise. The definition of a 'misleading action' is very detailed (regulation 5 of the CPRs) but it essentially means providing false information or giving an overall

presentation that deceives or is likely to deceive the consumer, even if the information is factually correct.

The CPRs also prohibit the omission of material information provided to consumers if that omission could cause the consumer to take a transactional decision they would not have taken otherwise. 'Material information' is defined as "information which the average consumer needs, according to the context, to take an informed transactional decision". A 'transactional decision' is not just whether a consumer decides to purchase a property, but could also include such things as whether to view a property in the first place.

The [National Trading Standards Estate and Letting Agency Team \(NTSELAT\)](#) has issued guidance on what information is considered to be 'material' and should therefore be included on the UK's major property listing portals (there are plans for further requirements to come into operation in due course). Failure to include the specified information will be flagged on the listing and will link to advice for consumers on why that information is important and how it may be obtained. For full details regarding the information to be disclosed, see the [material information](#) guidance on the National Trading Standards website; in particular follow the links to 'Material information summary' and 'Industry guidance'.

Things you say verbally about the property will be covered, as well as the printed word, photos, plans, models, websites, etc.

The CPRs do not prevent you from acting in vendors' interests by presenting a property in the best light, as long as what you say, or do, does not mislead the purchaser or the vendor.

See '[Consumer protection from unfair trading](#)' for further information on the CPRs.

The CPRs only cover descriptions used in the sale of property to consumers. However, similar provisions exist in the sale of commercial property by way of the Business Protection from Misleading Marketing Regulations 2008 (see '[Business-to-business marketing](#)').

Recommended practices

Ask vendors to sign a document confirming particulars are correct before you market a property. Give them a chance to amend anything that is wrong. This won't protect you if you print a misdescription you could have reasonably checked out for yourself, but it will minimise the risk.

Think about all the descriptive phrases you use and ask yourself what they will mean to a purchaser.

Make it somebody's task to proofread particulars and sign to say they have done so.

When you get enquiries about a property, ensure the person who prepared the details answers the questions, and keep a record of what is said on file.

Check everything you can. Ask to see receipts and guarantees for work carried out. Call to check Council Tax bands. Ask for evidence of sales and turnover if you want to describe the success of a business property.

Set up a process to ensure that your staff are adequately trained and that their work is regularly checked. You should consider random double-checking of property details against the property itself during this auditing process. Any deficiencies can then be dealt with by issuing corrected particulars and retraining where necessary. You should keep records of training and checks made.

General terms and descriptions

Care should be taken when using terms such as 'immaculate condition' or 'recently decorated'. These terms will be taken to refer to the entire property unless otherwise stated. If there are any particularly attractive features, your client will obviously expect you to use them as selling points, but they should not be emphasised to the exclusion of bad features if the overall result is a misleading description.

For guidance issued by NTSELAT on general terms such as 'new on the market', 'new instructions', etc; on terms for sales, such as 'under offer', 'sale agreed', etc; and on terms for lettings, such as 'let agreed' and 'let', see [Terms Used in Property Advertising \(Sales & Lettings\): Guidance for Industry, Consumers, and Other Stakeholders](#).

Location

Don't stretch popular and desirable areas too far; use the correct postal address. If a house is in one county geographically, but its postal address is in a neighbouring county, you should include both with equal prominence.

Comments concerning the proximity of properties to local services should be used with care. Terms such as 'close' or 'easy access' are best avoided, as are estimates of journey times. A statement of the actual distance is more accurate - for example, three miles to junction 16 of the M4.

Council Tax

The Council Tax band applicable to a property will be considered as material information, and will therefore need to be disclosed.

Environment

If a house has open fields on three sides and a builder's yard or nightclub on the fourth, the safest option is not to refer to the outlook of the property. If you said that it was surrounded by views across open fields, you would mislead unless you made equal reference to the view on the fourth side. If the fourth side was of such importance to a consumer that it could affect their decision to buy, it may be a misleading omission not to mention it. If you use a photograph of the back or the side of a property on its own, you should make that fact clear.

Photographs

A photograph can be misleading. Do not doctor photos or use extreme lenses that affect the perspective of the image. If you take a photo of the view from a bedroom window, but cannot include the rubbish dump, don't say 'panoramic views' or 'unspoilt countryside'.

Measurements

You should try to make measurements as accurate as you can. Laser measures are the most common tool used by agents and these should be regularly checked for accuracy against a known distance.

Be careful with gardens, where large length or area measurements can be involved, to ensure that

accurate dimensions etc are given.

New instructions

You may advertise a property as a 'new instruction' to your agency for only a short period (we would suggest no more than a month) after you have been asked to become the vendor's agent. This applies even if the property has been advertised previously with another agency.

See also the NTSELAT guidance on general terms used in property advertising, which is linked to in 'General terms and descriptions' above.

Pricing

Material information required to be provided by NTSELAT, in the case of lettings, includes the monthly rent and any deposit payable. In the case of sales 'the price specified as a single amount' is required.

The CPRs cover the pricing of all properties and you must be careful not to mislead consumers with regard to the previous price of a property if you are claiming a reduction in price. *Guidance for Traders on Pricing Practices*, produced by the Chartered Trading Standards Institute (CTSI), gives guidance as to how price reductions can be advertised. The guidance can be found in '[Providing price information](#)'.

You should also be aware that the Regulations ban a trader from passing on materially inaccurate information about market conditions with the intention of getting the consumer to make a purchase in less favourable conditions (for example, an agent incorrectly telling a consumer that they have sold several properties in the same area, just like the one the consumer is viewing, at a certain price, in order to get the consumer to buy at an inflated price).

Of course, you can change the price at any time and not claim a 'reduction' (but make sure all copies and methods of advertising a property are changed at the same time).

Tenures

NTSELAT requires the following (applicable to sales listings only).

If freehold, disclose as 'freehold'.

If leasehold, disclose as 'leasehold', and:

- current ground rent and any review period
- current service charge information and any review period
- length of lease

If shared ownership, disclose details of share being sold, and any additional liabilities or obligations.

If commonhold, disclose details of rights and obligations that apply between the unit holders, and between the unit holders and the commonhold association.

A simple search with the Land Registry can assist in providing this information.

Extensions, loft conversions and outhouses

Extensions, loft conversions and outhouses have created problems where an estate agent has described a room as a bedroom, but it has not been subject to planning or building regulation approval and, therefore, is not suitable to be used as such.

If a vendor is unable to supply details, then the planning office should be approached for confirmation.

If you are unable to establish that the room was correctly approved, then great care needs to be exercised; either describe the room as a boarded loft area (or other appropriate description), or state clearly that planning permission for the room has not been obtained.

Communal areas and parking places

Problems have arisen when a vendor has assumed that they own, or have rights over, a particular parking space when actually they only park there by habit or private arrangement. If a parking space used by a vendor is not clearly within the boundary of a property, further checks should be made or great care should be used when describing this feature.

Re-checking

If you have a property that has been under your instruction for a long period of time, it is advisable to check whether the details are still correct. If particulars are issued that contain information that is no longer accurate, an offence could be committed.

If a new road is planned, or if the local train operator withdraws a train service to which you had referred, you should modify your details and advertisements. You should consider a system of re-verifying particulars with vendors and including a clause in their contract requiring notification of any material alterations they make to property post-marketing.

It is suggested that particulars should carry the date on which they were compiled or revised to avoid confusion.

Disclaimers

The Consumer Protection from Unfair Trading Regulations 2008 do not state that disclaimers may be used, nor do they prohibit their use.

General disclaimers in small print, telling buyers not to rely on details, won't be effective in preventing offences. In particular, they are unlikely to be effective in relation to any misleading omission under the CPRs.

However, there are some cases where a specific qualifying description may be acceptable. For example, if the vendor claims, without documentary evidence, that the property was treated for dry rot, you may only mention this if you say as part of that description that you have not seen any documents to verify this. A similar qualification might be applied to the working order of household appliances, central heating or claims about the history of a property. The crucial fact in assessing whether a qualified description is valid is the ease with which you could have reasonably checked it.

Other matters that may affect you

The CPRs apply in relation to all elements of estate agency work, so will not only cover descriptions you apply to properties, but also any description you make concerning the service you provide, as well as the service itself. For example, if you display a 'For Sale' board outside a property you are not authorised to market, or display a 'Sold' board outside a property you have not sold, you are likely to be breaching the Regulations and could face civil and/or criminal action.

The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 (CCRs) apply to contracts made on-premises, off-premises and at a distance (such as via the internet). Where contracts to provide estate agency services are made off-premises or at a distance, the consumer has a right to cancel the contract within a 14-day period and the Regulations set out strict requirements as to how this right to cancel must be communicated to the consumer. See '[Consumer contracts: off-premises sales](#)' or '[Consumer contracts: distance sales](#)' for more information.

The CCRs also create requirements for the provision of certain information that a trader must give a consumer before a contract is agreed. This is covered in the two guides linked to above and also in '[Consumer contracts: on-premises sales](#)'.

Although you are unlikely to finalise a sale without any face-to-face contact with the purchaser, if you use a website to advertise properties, the Electronic Commerce (EC Directive) Regulations 2002 will apply. These are also covered in '[Consumer contracts: distance sales](#)'.

The Energy Performance of Buildings (England and Wales) Regulations 2012 create the responsibility of the seller to provide an Energy Performance Certificate (EPC) to the potential buyer. If it is being rented, then it is the responsibility of the landlord to provide the EPC to the potential tenant. An agent for the landlord or seller must ensure that an EPC has been commissioned for the property before marketing and make all reasonable efforts to ensure the EPC has been obtained within seven days of first marketing the property. See also '[Energy Performance Certificates](#)'.

The Consumers, Estate Agents and Redress Act 2007 places a requirement on estate agents to belong to an approved redress scheme. Letting agents and property management companies in England are similarly required to belong to an approved redress scheme under the Redress Schemes for Letting Agency Work and Property Management Work (Requirement to belong to a Scheme etc) (England) Order 2014. NTSELAT has approved two [redress schemes](#), operated by [The Property Ombudsman](#) and the [Property Redress Scheme](#).

Property agents (those who engage in letting agency or property management work) in England are required to belong to an approved client money protection scheme. There are requirements to display membership certificates, to inform clients of which scheme they belong to, and to notify clients of any changes regarding membership of a scheme. [Guidance on client money protection](#) is available on the GOV.UK website.

Under the Town and Country Planning (Control of Advertisements) Regulations 1992, the display of temporary 'For Sale', 'To Let' or 'Sold' boards is allowed by way of a 'deemed planning consent', providing certain criteria regarding maximum size etc are met. Once a sale has gone through, or a premises has been let, a sign such as 'Sold' or 'Let' may only be displayed for a maximum of 14 days. See '[Outdoor Advertisements and Signs: a Guide for Advertisers](#)', published by the Department for Communities and Local Government (a predecessor of the Department for Levelling Up, Housing and Communities), for more information.

Most of the Estate Agents Act 1979 is enforced by NTSELAT by a system of negative licensing. This means you do not need a licence to act as an estate agent, but if you breach the legislation, you may be banned.

It covers various undesirable practices, such as failure to declare a personal interest, failing to pass on offers, discriminating against buyers that do not take other services, conviction for other offences involving fraud, dishonesty, etc. The part enforced by Trading Standards services relates to the maintenance and auditing of clients' accounts.

Anyone who lets furnished accommodation as a business activity - including letting agents, estate agents and private landlords - needs to be aware of the safety requirements; see '[Goods in rented accommodation](#)'.

The Consumer Rights Act 2015 outlines requirements for accommodation letting agents and property management businesses to display their fees and charges; see '[Landlords, letting agents and property management](#)'.

The Tenant Fees Act 2019 prohibits letting agents from requiring tenants, and those connected with them, to make certain types of prohibited payments, to enter into specified contracts or to make loans in connection with tenancies of housing in England; see '[Landlords, letting agents and property management](#)'.

If you offer credit, or introduce people to sources of credit, you need to be authorised by the Financial Conduct Authority; see '[Credit and other financial matters](#)'.

Trading Standards

For more information on the work of Trading Standards services - and the possible consequences of not abiding by the law - please see '[Trading Standards: powers, enforcement and penalties](#)'.

In this update

The National Trading Standards Estate and Letting Agency Team has created guidance on general terms used in property advertising.

Last reviewed / updated: October 2023

Key legislation

[Estate Agents Act 1979](#)

[Town and Country Planning \(Control of Advertisements\) Regulations 1992](#)

[Enterprise Act 2002](#)

[Housing Act 2004](#)

[Consumers, Estate Agents and Redress Act 2007](#)

[Consumer Protection from Unfair Trading Regulations 2008](#)

[Energy Performance of Buildings \(England and Wales\) Regulations 2012](#)

[Consumer Contracts \(Information, Cancellation and Additional Charges\) Regulations 2013](#)

[Redress Schemes for Letting Agency Work and Property Management Work \(Requirement to belong to a Scheme etc\) \(England\) Order 2014](#)

[Consumer Rights Act 2015](#)

[Client Money Protection Schemes for Property Agents \(Requirement to Belong to a Scheme etc\)](#)

[Regulations 2019](#)

[Tenant Fees Act 2019](#)

Please note

This information is intended for guidance; only the courts can give an authoritative interpretation of the law.

The guide's 'Key legislation' links often only shows the original version of the legislation, although some amending legislation is linked to separately where it is directly related to the content of a guide. Information on changes to legislation can be found by following the above links and clicking on the 'More Resources' tab.

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