

businesscompanion

trading standards law explained

Avoiding misleading commercial claims

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To comply with consumer law, you must ensure that any claims or statements you or your staff make about your home (whether in writing, visually or verbally) are truthful, accurate and up-to-date. Any information that you give a potential resident, family member or their representative that is untruthful, or presented in a way that may deceive them, is likely to infringe consumer law. For example, you should not:

- claim that your care home has an extensive range of daily activities on offer (for example, on-site entertainment, an activity coordinator or hospitality team) when it does not
- claim that your care home offers 'outstanding', 'superb', 'fantastic' or similarly high standards of care, when the latest inspection report from your sector regulator identifies your service as performing badly, requiring improvement, or when your home has been stopped from taking on new residents
- claim that your care home has recently won an award (or give that impression) when that is not true
- include customer reviews or testimonials on your website or in marketing materials, which are fake, or where the reviewer has been incentivised in some way to write a positive review
- selectively highlight positive customer reviews, where they are inconsistent with an inspection report, or fail to display negative ones
- supply false or incomplete information about your services to a third-party website - for example, a care homes listing site
- give false information about the experience and qualifications of your staff, or any awards they have won
- selectively quote from your sector regulator's inspection report to give a misleading overall impression about its findings
- mislead people about your inspection rating or grade by displaying an old one that was more favourable than your most recent review
- supply false or incomplete information to help justify the level or purpose of any additional charge. You should be particularly careful with any fee that is not part of the 'headline' price, because while a potential resident and their representatives are likely to expect a weekly residential fee, they are unlikely to expect other charges

A selection of unfair claims

There are other claims you could make that would be considered unfair in all circumstances under consumer law. These include:

All of these practices are likely to be 'banned practices' under Sch.1 to the Consumer Protection from Unfair Trading Regulations 2008, and will always be deemed unfair regardless of the circumstances.

- claiming to have signed up to a trade association's code of conduct, when you have not
- displaying a trust mark, quality mark or equivalent reputable mark, without being authorised, or where your home is not compliant with the scheme's rules
- claiming that your care home has been approved, endorsed or authorised by a public or private body, when this is not the case - for example, claiming to be registered to offer a specific type of care service when that is false
- falsely stating that your service will only be available for a very limited time, or that it will only be available on particular terms for a very limited time, to elicit an immediate decision from a potential resident or their representatives - for example, pressuring someone to sign a contract by falsely claiming or giving the impression that:
 - there is only one suitable room available in your home
 - there is a long waiting list for it
 - someone else is interested in moving in straight away
 - availability is restricted when in fact your home has a reasonably rapid turnover of rooms

All of these practices are likely to be 'banned practices' under Sch.1 to the Consumer Protection from Unfair Trading Regulations 2008, and will always be deemed unfair regardless of the circumstances.

If you engage in a commercial practice that is deemed misleading under the Consumer Protection from Unfair Trading Regulations 2008, you may also be infringing the UK Code of Non-broadcast Advertising and Direct and Promotional Marketing (CAP Code), which is a self-regulatory system run by the Advertising Standards Authority.

You can find out more about consumer law in the Fair trading for care homes booklet on the [Business Companion website](#).

< 'Important additional information': A detailed guide

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