

Does your website comply?

Do you run your own business or company? Do you have a website?

Under the E-commerce Regulations and the Companies (Registrar, Languages and Trading Disclosures) Regulations introduced on 1 January 2007, all providers of online services must make certain information available to the users of their service; e.g. the name of the service provider including registered address and e-mail address, if you are corporate entity, company and VAT registration number and details of any regulatory authority.

If a company or business fails to comply with these Regulations, it is liable to a fine

It is also advisable for a website owner to have terms and conditions dealing with access to and use of its site, in a bid to prevent the unauthorised reproduction of materials from the site or unauthorised linking to the site, and/or restricting its potential liabilities.

The following key issues should be addressed in a set of standard website terms and conditions:

Ideally, visitors to a website should be taken to the website's terms and conditions and be required to click on an "Accept" icon before being permitted to move through the site. Where this is not commercially acceptable, the website should incorporate a prominent notice on the homepage stating that, by using the site, visitors are deemed to have accepted the website terms and conditions, and providing a prominent link to those terms and conditions so that visitors can easily see what they contain.

You should impose obligations on visitors not to post any illegal or harmful content on the site as, in addition to the damage which such content could have on the reputation of your business.

Most commonly, website terms and conditions permit linking to the site provided it is done in accordance with certain conditions which may be set out in the website terms and conditions or in a separate linking licence which is also posted on the site. Where passwords are required to access the site, the terms and conditions should impose an obligation on visitors not to pass the passwords to anyone else. The use of passwords can help to prevent internet fraud.

It is critical to disclaim any liability for the content or performance of the website. A visitor might try to impose such liability on you where, for example, the visitor relied on content which turned out to be incorrect or out of date. Clearly, you would not deliberately include such content on your site, but you will want to avoid any obligation to ensure that content is correct or up to date as the task of checking and updating all content on a regular basis would be onerous and time-consuming. Of course, different considerations apply where you seek to disclaim liability for goods or services supplied via the site.

Most sites collect personal data on visitors, and consequently you will have obligations under UK data protection law in respect of such data. Some of these obligations can be addressed by the use of a privacy policy on the website which can be brought to the attention of visitors to the site by being referred to in (and linked to from) the website terms and conditions. Where the site is used to process orders for the supply of goods or services, additional provisions will be necessary in order to set out the precise terms on which such goods or services will be supplied (dealing, for example, with contractual procedures for placing and accepting orders), and to reflect applicable legal and regulatory requirements (such as those relating to distance selling).

For a full suite of terms and conditions for as little as £300, including privacy policy and acceptable use policy ensuring that you comply with all information requirements specified in the Electronic Commerce (EC Directive) Regulations 2002 (E-Commerce Regulations) and - in relation to online sales - with the Consumer Protection (Distance Selling) Regulations 2000 (Distance Selling Regulations).

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