

KEEPING YOUR WEBSITE LEGAL

Most businesses have a website. A decent site is now seen as an absolutely indispensable marketing tool and businesses invest heavily in this resource. Yet not all these sites are 'legal'. The informal nature of the internet and email communication leads some businesses to overlook key legal issues. Yet as sites are accessible by literally the whole world, this could prove a costly oversight.

We offer the following practical advice:

Website terms and conditions

We recommend that businesses have terms and conditions covering the use of their site. These should be specifically drafted for website use.

These can be used to help prevent unauthorised reproduction of materials from the site and prohibit links to the site without your express consent.

You will need to consider how the site's terms and conditions are incorporated. A tick box on first use to confirm acceptance followed by a prominent notice and link drawing the visitor's attention to the terms and conditions from all web pages is usually best practice.

Privacy policy

If you collect and store personal data online (eg. name, address and credit card details) then you must comply with data protection law. Privacy policies outline a business' practice and policy on the collection, storage, protection and use of personal data and aid compliance with the regulations.

The policy should then be brought to visitors attention by being referred to and linked from the website terms and conditions. Best practice would be for the terms and conditions and privacy policy to appear side by side, accessible clearly from every web page.

Failure to comply with data protection requirements can in some circumstances lead to criminal sanctions and liability for damages.

Disclaimer

A well worded disclaimer on your website can help you disclaim any liability to visitors to the site for its content or performance. For example, you would wish to avoid any obligation to ensure that content is correct or up to date. Disclaimers must be displayed prominently to ensure that you can rely on them.

Copyright

Many clients are concerned about copyright and the intellectual property in their site. Terms and conditions help by making clear that the contents of the website including designs, text, graphics and photographs all belong to the business. Use of the © symbol, name of the owner and the year of publication on the site can help.

Your copyright would be infringed if someone was to copy or reproduce a substantial part of your site's material without your consent.

Copyright protects on-line literature and artistic creation. Protection is automatic and it does not need to be registered.

Distance selling

If you sell online, by mail order or by telephone (ie. not face to face) to consumers then the Consumer Protection (Distance Selling) Regulations 2000 will apply. The Regulations do not apply to business to business transactions. The majority of goods sold in this way will allow the consumer a 'cooling off' period of 7 working days.

Electronic communications

If you are a limited company, your company name and number, place of registration and registered office must all be shown on your website and on all emails sent.