businesscompanion
trading standards law explained

Am I in business?

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In this guide, the words 'must' or 'must not' are used where there is a legal requirement to do (or not do) something. The word 'should' is used where there is established legal guidance or best practice that is likely to help you avoid breaking the law.

This guidance is for England, Scotland and Wales

Whether you want to buy and sell goods, make money out of your carpentry skills, or run your own café, running a business can be daunting. The internet has greatly increased the opportunities for individuals to sell goods, with the absence of any need for traditional 'shopfront' premises.

The purpose of this guide is to enable sellers to establish what their legal obligations are and to provide businesses with an introduction to the UK's consumer and trading laws.

Buyers' rights and sellers' obligations vary in different situations, depending on the legal status of both:

- When a consumer sells to a consumer ('consumer-to-consumer') or to a business ('consumer-to-business'), the seller has minimal obligations and the buyer very few rights; broadly speaking, it is 'buyer beware'
- When a business sells to a consumer ('business-to-consumer'), the seller must comply with a wide range of consumer laws, covering such matters as information provision, cancellation rights, buying rights (such as description and quality) and product safety. Accordingly, the buyer has extensive legal rights that automatically apply to the transaction
- When a business sells to another business ('business-to-business'), the seller has contractual and commercial obligations, but does not have to comply with most consumer law provisions; this means that the buyer has significantly fewer rights than in a business-to-consumer sale

It is important to clarify the legal status of both the buyer and the seller to ensure that obligations are met

and rights are respected. It is an offence for a business to sell in such a manner that they give the impression to consumers that they are a private seller - for example, a motor trader leaving cars that are for sale on a residential street, or a professional bookseller using an online marketplace, such as eBay, and posing as a private seller.

This guide, along with much of the associated guidance on this website, focuses on business-to-consumer sales. When sellers make their goods generally available, it is often evident that some of their customers will be consumers. The key question then becomes: is the seller acting 'in business'?

Key indicators of being 'in business'

There is no single test for determining whether a seller is acting in business. Each case depends on its own facts and circumstances. However, a seller is more likely to be considered a business if they:

- Regularly buy goods with the intention of reselling them
- Make, modify, refurbish or repair goods for sale
- Sell goods frequently or in significant quantities
- Sell through multiple channels, such as online marketplaces, social media platforms, car boot sales or market stalls
- Rely on the income from sales, even if only as a secondary source of income
- Present themselves to buyers as a business or trader

No single indicator is decisive, and not all of these factors need to be present to be considered 'in business'.

Defining 'in business'

The Digital Markets, Competition and Consumers Act 2024 (DMCCA) states that a 'business' includes "a trade, craft or profession" and "any other undertaking carried on for gain or reward", while 'trader' means "a person ('P') acting for purposes relating to P's business, or … a person acting in the name of, or on behalf of, P for purposes relating to P's business".

These general definitions allow the concept of being 'in business' to be wide-ranging, and they reflect the expansive nature of what being in business can involve. The definitions clearly apply to registered limited companies, partnerships and individuals who use a business name and employ others in their business. However, many other sellers are also acting in law as a business, including some who sell through online platforms, but may not realise their status and the obligations that go with it.

Another key word in much of the legislation is 'trader'. This may conjure up images of market traders selling fruit and vegetables, or City traders in the stock exchange, but in consumer law it goes much further than that: it is an all-encompassing term for any business seller.

The attached flowchart will help you to work out whether you are a business or a private seller.

FAQs

Q. I have a job and only sell at weekends; are my activities private sales?
A. It depends. Being in employment (or indeed having any other main source of income) does not preclude you from also being in business in relation to sales. It will depend on the quantity, regularity and nature of the sales. Unfortunately, there are no set financial thresholds or similar black-and-white assessments; each case must be judged individually.

Q. Do I need to be VAT-registered before consumer laws apply to me?
A. No. Being VAT-registered is likely to be a clear indicator of being in business, but many sellers who fall short of the threshold for VAT registration are still business sellers in consumer law.

Q. I occasionally sell off a few items for relatives who can't use a computer. Are these consumer-to-consumer sales?
A. If the activities are restricted to those described, then these are not likely to be business sales. If that is the case, the main requirements are that goods are not misdescribed and the seller has the legal right to sell them. However, if 'a few items' increases, and you end up regularly selling a significant number of items, you could be seen as being in business.

Q. I don't have my own website, I just sell on eBay and Facebook, maybe three or four items a day. These platforms are for private sellers, aren't they?
A. These platforms and others like them (known as 'online marketplaces') are used by private sellers to get rid of unwanted items and recoup a little money. However, traders also use online marketplaces; the activity in this example sounds like the seller would be considered a 'trader' and consumer laws would therefore apply.

Q. I sell at car boot sales, through platforms like Gumtree, local small ads, Facebook selling groups, and Instagram. Do consumer laws apply to me?
A. The key factors to consider are regularity, quantity, and intent. Occasional selling at a car boot sale (see 'Car boot sales') might not be considered a business, but if you also sell regularly online or through social media platforms, consumer laws are more likely to apply. The scale of your activity matters, as hobbies can turn into businesses over time. Another important consideration is where the goods were obtained and why. Were they recycled, or were they purchased specifically to resell at a profit? A seller who is active across multiple channels and intentionally sourcing items to sell for profit is far more likely to be classified as operating a business under legal definitions.

Q. I run a small community group that makes and supplies soft toys to local children. We don't sell anything, so can we ignore consumer laws?
A. Many of the laws relating to consumer sales are not relevant, but others are likely to be very important; in particular, product safety legislation, which generally applies to 'supply' and not just sale. Requirements around toys are very strict and specialist advice is needed.

Q. What consumer laws do I have to comply with?
A. This depends on the nature of your business. Consumer law is very wide-ranging, covering topics such as consumer buying rights, online contract formation, product descriptions, weights and measures, price display, product safety, and age-restricted sales. However, it may be that only some of these are relevant to your business. Some products that you may sell have very specific legal requirements ('Toys', for example), while other business practices will fall under the more general information covered in guides like 'Selling and supplying goods' and 'Consumer contracts: distance sales'. And it may not just be consumer laws; if you keep animals, there are many laws that may apply to you, sometimes even if you are not in business (see, for example, 'Responsible animal / pet ownership').

Q. Why should I bother worrying about compliance? Can't I just deal with any problems that arise?
A. This approach is not recommended for several reasons. Leaving yourself open to complaints risks damage to your business reputation, a problem that can spiral quickly through online postings. You may also be subject to enforcement action by Trading Standards. A third risk is being sued, which is a particular danger if you sell safety-critical items such as nursery goods, toys or electrical products; an injured consumer could successfully sue you for a large sum if you are not compliant.

Q. I've read your guide and still can't work out if I'm in business or not. What should I do?
A. Contact your local authority Trading Standards service for advice.

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

New section: 'Key indicators of being 'in business''.

Last reviewed / updated: June 2026

Key legislation

- Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013
- Consumer Rights Act 2015
- Digital Markets, Competition and Consumers Act 2024:
    - Part 4, Chapter 1

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 go to the legislation.gov.uk website. The site usually updates the legislation to include any amendments made to it. However, this is not always the case. Information on all changes made to legislation can be found by following the above links and clicking on the 'More Resources' tab.

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