



Business in Focus



Holiday parks

Guidance for holiday park owners and operators selling holiday caravans / holiday lodges for private ownership

Make sure your business complies with consumer law

businesscompanion
trading standards law explained

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Introduction

The background to this guidance

Background

Purchasing a holiday caravan / holiday lodge is a significant purchase for many owners. It is important that they are clear about what they are buying into, realising their responsibilities, as well as limitations placed upon the asset that they have purchased, and specifically when and how often they can use their new asset. It is in your interest, as well as the owner's, that they understand the contract they have agreed to, and that they are treated fairly by you during the lifetime of their contract.

The contracts for purchasing and siting a holiday caravan / holiday lodge are unique to your sector and, therefore, owners may not be familiar with the detailed implications. This means that an owner may not have the freedom that they expected over how they use and treat their new asset. Such rules may only be enforced on your holiday park when they are fair, clearly explained and you follow consumer legislation.

There is legislation that ensures owners have the information that they need to make an informed decision whether to buy, or not, and about matters that arise before, during and after their contract with you. Owners should not be given misleading information, nor should they have important information that they need to know kept from them or hidden away. They should not be

put under pressure to make a quick decision and the needs of vulnerable owners should always be considered.

Holiday caravans / holiday lodges are sometimes referred to as 'static caravans' or 'caravan holiday homes'. For the sake of brevity, this guide will use the inclusive term 'holiday caravan / lodge'.

About this guide

This guide sets out how consumer law could apply to businesses owning and/or operating holiday parks selling holiday caravans / lodges for private ownership. The guide does not apply to residential parks covered by the Mobile Homes Act 1983. It is based upon our knowledge of your sector and will apply the law in practical terms, including situations that we think are more likely or less likely to breach the law. Application of the law will depend upon the actual

“an owner may not have the freedom that they expected over how they use and treat their new asset”

situation and, therefore, we can only describe the law. This guide does not constitute legal advice. The guide is addressed to holiday park owners and operators, who we will address as 'you' or 'your' throughout.

The first two parts concern contract law and fair-trading legislation. Although we will include some practical application, the primary purpose of these two parts is to set a scene. We will then provide guidance on how we think the law might apply to your business from marketing to the ending of the licence agreement to site a holiday caravan / lodge on a holiday pitch on your holiday park.

The guide will only apply to your dealings and contracts with 'consumers' (a 'consumer' is defined in the Consumer Rights Act 2015 as "an individual acting for purposes that are wholly or mainly outside that individual's trade, business, craft or profession"). This will include consumers who may, through an agreement with you or through another arrangement (for example, a short-term hire) allow others to use their holiday caravan / lodge for holiday use.

For the rest of this guide, we will refer to the consumer who owns a holiday caravan / lodge pitched on your holiday park, or who is potentially going to buy one, as 'the owner' or 'prospective owner'.



This guide consists of four parts:

- Part 1. Contract law and unfair terms
- Part 2. Fair-trading law
- Part 3. Sales, marketing and entry into contracts
- Part 4. Dealing with holiday caravan / lodge owners

Vulnerable owners

It is important that you, as a holiday park owner, are aware of your additional responsibilities towards vulnerable owners. We can all experience vulnerability during our lives. Sometimes this may be due to our physical or mental health, but it may also be caused by difficult periods in our life, such as bereavement or divorce.

The market context may also make us vulnerable. As owners, the chance to fulfil our dream and buy our holiday caravan / lodge may lead us to not pay attention to the detail of what we are signing up for.

A vulnerable owner may need help or a different communication method to make the right decision. It is important that you take this into account in your communications and when training your staff. Ideally you should have a vulnerable owner policy.

Detailed guidance can be found in Business Companion's '[Consumer vulnerability](#)' guidance.

Further guidance

In addition to this sector-specific guidance, we will also refer you to other general guidance on the Business Companion site. This will provide greater detail, beyond what we have decided to include in this guide.

We cannot tell you how to run your business, we can only guide you as to practices that are more, or less, likely to comply with the law. Best practice guidance can be obtained from the two trade associations in your sector.

Their contact details are given below.

- British Holiday and Home Parks Association - enquiries@bhpa.org.uk
- National Caravan Council - info@thecc.org.uk

These two trade associations also offer model contract documentation. We have not reviewed these model contracts and their use does not guarantee that the contracts individual park owners enter into with owners are fair. Park owners wishing to use such model contracts should ensure that the terms are relevant and proportionate to their particular circumstances. Park owners should satisfy themselves that all the terms are fair and in accordance with consumer legislation.

Your local authority Trading Standards service may also be able to offer you advice and guidance on the law.

Part 1. Contract law and unfair terms

Defining a contract, and preventing unfair terms

Types of contract

In this first part of the guidance, we will look at the contracts (agreements) that you agree with owners. Generally, there are likely to be two contracts when you sell a holiday caravan / lodge:

- a purchase agreement for the holiday caravan / lodge
- a pitch licence agreement, referred to as a licence agreement to site a holiday caravan / lodge on a holiday pitch

These may be combined into a single document. Regardless of whether presented as a single contract or not, owners are only likely to realise benefits from the contract(s) in combination. This may limit a park owner's ability to rely on termination to mitigate the effects of an unfair price variation, for example.

There may be additional contracts that you agree with an owner - for example, for you to rent out their holiday caravan / lodge to other consumers for holiday use, or when you carry out additional services such as the installation of decking or other pitch improvements, or moving their holiday caravan / lodge in circumstances not already provided for in the licence agreement.

The sale of the holiday caravan / lodge, the supply of services, and unfair contract terms are covered by the Consumer Rights Act 2015 (CRA),

the Consumer Protection from Unfair Trading Regulations 2008 (CPRs) and the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 (CCRs), and we will look at these in part 2.

A binding agreement

A contract is a binding agreement between you and the owner. Your contracts must be clear and their terms must be fair. They should also set out all the parties' rights and obligations, along with the consequences if the contract is not complied with, for the lifetime of the agreement.

“it is important to realise that all of the pre-contract information you provide may form part of the contract”

However, it is important to realise that all of the pre-contract information you provide may form part of the contract. Anything that you or your staff say about yourself or the service you provide, which is then relied on by the owner when deciding whether to enter into the contract (or in relation to the service after they have entered into the contract), may also form part of the contract. You are not allowed to exclude these types of statement from your contract.

Your pitch licence agreement may seek to allow you to make changes to your contract - for example, to increase fees or to move pitches due to holiday park improvements. Such terms risk being found to be unfair, especially where they might be used to make changes during a fixed term of a contract.

Any variation term must, as a minimum, set out very clearly what changes may be made. You will need to set out in detail before the contract is entered into how any changes will take place, the reasons for the changes and the method for calculating the increase / cost that is to be imposed on the owner. Fairness is more likely to be achieved if you use an external index to set the new price - for example, if price rises are restricted to increasing a pitch fee in line with the Consumer Price Index.

In addition, the term must require you to give plenty of notice to the



owner and give the owner the right to exit the contract without being left worse off if they do not agree with the change. This right to exit must be genuine: it must be capable of being exercised in practice without loss or serious inconvenience. For example, in assessing the fairness of a term that you want to rely on to increase the price of a pitch fee, it would be relevant to consider whether the owner could have predicted what the new price would be, how much notice they are given of the price rise, and whether they can end their contract without suffering loss. If the owner would need to move their caravan to another site, or pay you to sell it, or there is not a comparable pitch that they can move to, fairness is less likely to be achieved.

If you have purchased a holiday park, and you and the former park owners have agreed to the licence agreements being novated to you

(either expressly or impliedly), you will take on the benefits and obligations of existing pitch licence agreements. This means that you can only make changes that the existing agreement will allow you to make. Whilst those agreements remain in force, you cannot make changes that the agreements do not allow for, nor impose new agreements upon existing owners.

“This right to exit must be genuine: it must be capable of being exercised in practice”

User-friendly, clear and unambiguous terms

When purchasing a holiday caravan / lodge, owners are entering into a large financial transaction. In addition, they will usually be agreeing to a long-term contract regarding the siting of their purchase. As we have already indicated, the model for your sector is unusual and it is vital that owners have a clear understanding of their rights and what they are committing to. Failure to get this right may lead to the relevant provision being unfair. We will look at the consequences of using unfair terms later on in this part of the guidance.

The following checklist may help you to assess the clarity of your contract. Contract terms must not only be fair, they must also be transparent. A lack of transparency will be taken into account when considering the fairness of a term.

Contract checklist

Question	Reason
Is the contract easy to read?	<p>Small print may put owners off from reading the contract.</p> <p>Poor layout does not enable owners to get a full understanding of the contract.</p> <p>Avoid headings like 'small print'. These words may be amusing for lawyers, but they can imply that these sections do not need to be read</p>
Is the contract easy for an owner to understand?	<p>Contracts must be written for owners to read, not lawyers.</p> <p>Avoid jargon. When this is not possible, ensure you have adequate definitions as part of your contract</p>
Are important terms brought to the consumers attention?	<p>Good practice can be to summarise the most important terms at the beginning of your contract, linking to the main content. This may include:</p> <ul style="list-style-type: none"> • how pitch fees are reviewed • a clear indication that the holiday caravan / lodge cannot be used as a permanent residence • which services are included within the pitch fee • the transfer fee that may be charged if the owner sells their holiday caravan / lodge privately on its pitch • restrictions relating to the sale, disposal and age of the holiday caravan / lodge • onerous and unusual terms <p>A core term that is not brought to the owner's attention will fail the prominence requirement for the core terms exemption and risk being legally unfair. (See 'The fairness test' below)</p>
Can the owner understand the consequences of each of the terms of the contract and how they work together?	<p>The requirement of plainness and intelligibility means that the term should not only make grammatical sense but must put the owner in the position of being able to evaluate, based on clear, intelligible criteria, the economic consequences that could arise from it.</p> <p>The relationship to other terms must also be explained in a transparent manner</p>

Consequences of using unfair terms

Where a term is unfair it is unenforceable against the owner (although the owner can still rely on it against you if they wish to). The rest of the contract remains binding, even if it is less of a good deal for you without the unfair term; you cannot amend an unfair term later to make it more fair. If you have relied on a term to collect money from owners, and this term is later found to be unfair, you may have to refund all of this money. This could have major implications for the operation of your contract and may have a much wider impact on all similar contracts that you have entered into.

In addition, enforcement action can be taken by public enforcers, including local authority Trading Standards services and the Competition and Markets Authority. Both organisations can use a civil injunction to prohibit the use of unfair terms and can secure redress for owners who have been affected by unfair terms or practices.

Blacklisted terms

The CRA states that certain terms, allowing you to exclude or restrict your liability under consumer law, are automatically unfair and not binding on an owner. Terms that would be relevant to your sector include:

- those that exclude or restrict your liability, under the CRA, with

regard to the goods that you have sold the owner - for example:

- not accepting any liability when the holiday caravan / lodge is not fit for purpose, or is defective
- not accepting any liability when there are problems with the holiday caravan / lodge that are caused by your staff, or sub-contractors, when siting the unit
- stating that only the manufacturer is responsible for any faults with the holiday caravan / lodge
- those that exclude your liability for the workmanship of sub-contractors you have employed to carry out work that you have agreed with the owner. The CRA states that this work should be carried out with reasonable care and skill
- any restriction of your liability for death or personal injury that has been caused due to negligence of you, your staff, or sub-contractors working on your behalf
- those that prevent owners from relying on any pre-contractual statements made by your staff

'Grey list' terms

The CRA contains a list of 20 terms that may be regarded as unfair, known as 'the grey list'. However, these terms are not automatically unfair, and all the circumstances relevant to the contract need to be considered when assessing them.



Two examples of terms on the grey list are as follows.

“2. A term which has the object or effect of inappropriately excluding or limiting the legal rights of the consumer in relation to the trader or another party in the event of total or partial non-performance or inadequate performance by the trader of any of the contractual obligations, including the option of offsetting a debt owed to the trader against any claim which the consumer may have against the trader.”

This may apply to a term in your contract that attempts to limit your liability when services or facilities, within the pitch licence agreement, are unavailable for reasons that you are able to control.



“11. A term which has the object or effect of enabling the trader to alter the terms of the contract unilaterally without a valid reason which is specified in the contract.”

This may apply to a very generally worded term allowing you to vary any aspect of the pitch licence agreement without including examples of legitimate reasons when terms of the contract may need to be varied, such as when the law changes.

We will return to the grey list in part 4, when we will look at specific aspects of your contract.

The fairness test

Finally, the CRA applies a test of fairness to your contract terms, which takes account of what the contract is about, all the circumstances existing when a contract was agreed, all the

other terms of that contract and any other relevant contract.

The CRA states that a contract term “is unfair if, contrary to the requirement of good faith, it causes a significant imbalance in the parties’ rights and obligations under the contract to the detriment of the consumer”. For example, this may apply to a term that allows you to carry out more detailed checks on a private buyer of a holiday caravan / lodge than you would carry out on a person that you are selling directly to.

We will return to the fairness test in part 4, where we will look at specific aspects of your contract.

An exemption in the legislation means that a term may not be assessed for fairness to the extent that it specifies the main

subject matter of the contract or the appropriateness of the price payable. This is sometimes referred to as the core exemption, or core terms exemption. However, if the subject matter and price terms are not transparent and prominent, the fairness test can be applied to them. As an example, it will be difficult for an owner to argue that the price / pitch fee was unfair if that price / pitch fee was specifically brought to their attention prior to entering the contract and provided it is transparent, although any clause allowing a variation of the price / pitch fee will still be subject to the fairness test.

CMA unfair terms guidance

The Competition and Markets Authority has produced [detailed unfair contract terms guidance](#).

Part 2. Fair-trading law

The main pieces of legislation that affect holiday park owners

Legislation

In this second part of the guidance, we will look at three important pieces of fair-trading legislation:

- Consumer Protection from Unfair Trading Regulations 2008 (CPRs)
- Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 (CCRs)
- Consumer Rights Act 2015 (CRA)

We will give you a broad overview of the legislation and how it might apply to your sector, and provide links to more detailed guidance on Business Companion. We will add more practical examples of how the CPRs may affect your business in parts 3 and 4.

Consumer Protection from Unfair Trading Regulations 2008

The CPRs aim to ensure that owners are treated fairly, that they have the correct information they need to take an informed decision, and that aggressive practices are not used to force them to make a decision. You will see that CPRs do not just apply to your marketing and selling of holiday caravans / lodges, they are just as relevant to your dealings with owners throughout their contract with you. The CPRs will also apply when you purchase a holiday caravan / lodge from an existing owner.

COMMERCIAL PRACTICES AND TRANSACTIONAL DECISIONS

The CPRs apply to any commercial practice you engage in with an owner either before, during or after they enter into a contract with you. The information you provide on your website, advertising materials and the information that is given to an owner during the sales process, including the contract documentation itself, are all commercial practices. The way you explain or enforce your terms and conditions and your complaints-handling procedures are also considered to be commercial practices.

A transactional decision is also an important concept in the CPRs. It includes an owner's decision to do something or not to do something, both at the time of purchase and when exercising their contractual rights. Examples of transactional decisions are:

- deciding to visit your park to attend a sales presentation
- a decision to buy a holiday caravan / lodge from you
- a decision to buy directly from you, rather than from an existing owner by way of a private on-park purchase
- a decision not to challenge a pitch fee price rise
- a decision to buy decking from a contractor that you have an arrangement with, rather than



shopping around for quotes from other suppliers that would meet the criteria for safe working on your holiday park and could supply similar, or identical, materials that meet your requirements

- a decision to complain, or not to complain, to you or to organisations such as Trading Standards or the Police

The CPRs use the concept that the 'average consumer' would have made a different transactional decision if they had been given full and accurate information or had not been unfairly pressurised to take that decision.

An 'average consumer' is the standard that the CPRs uses when applying the transactional decision test. It is based upon a person who is "reasonably well



informed, reasonably observant and circumspect". The qualities of this consumer can be modified if a court considers the consumer to be vulnerable - for example, a first-time buyer may be considered to be more vulnerable than an owner who has purchased a holiday caravan / lodge before. If you are targeting a specific group in your marketing (for example, older consumers) the average consumer test will be based upon members of that specific group.

A GENERAL DUTY TO TRADE FAIRLY

The CPRs also set out a general duty to trade fairly. You must not breach the requirements of professional diligence and thereby materially distort the economic behaviour of the owner. This means impairing their ability to make an informed decision that causes them to make a different transactional decision to the one that

they would have made if they had not been treated unfairly.

MISLEADING ACTIONS

A misleading action occurs where a practice contains false information about a wide range of things listed in the CPRs, or if its presentation is deceptive (even if the information is factually correct) and causes (or is likely to cause) the average consumer to take a decision that they would not have taken otherwise.

This will include misleading claims about prices - for example, using a false previous selling price in a sales promotion or giving an owner incorrect information about what alterations they can make to their pitch or their right to use their holiday caravan / lodge as a primary residence. More examples will be given in parts 3 and 4.

MISLEADING OMISSIONS

These occur when your practice omits or hides 'material information' that the average consumer needs to take an informed decision, or where you provide it in a way that is untimely, unclear, ambiguous or unintelligible. The practice must also cause, or be likely to cause, them to take a different transactional decision as a result. Material information must be provided to owners when they need it, whether or not they have asked for it.

Misleading omissions will include failing to make clear that the selling price does not include other costs, such as pitch fees, that a prospective owner would have to pay when purchasing a holiday caravan / lodge. More examples will be given in parts 3 and 4.

AGGRESSIVE COMMERCIAL PRACTICES

These are practices that intimidate or exploit owners through harassment, coercion or undue influence, significantly impairing their ability to make free or informed choices, and which cause, or are likely to cause, them to take a different transactional decision as a result. Aggressive practices include both physical and non-physical pressure - for example, psychological pressure, use of threatening language, or taking advantage of the owner's position or vulnerability.

Aggressive practices would include pressure selling, where a prospective owner is pushed to decide to buy immediately in order to benefit from a claimed price advantage. It could also include threats to terminate an owner's pitch licence agreement if they question charges levied against them or continue to pursue a complaint against you. More examples will be given in parts 3 and 4.

BANNED PRACTICES

The CPRs set out a list of 31 specific practices (sometimes referred to as 'banned practices') that are considered unfair in all circumstances, whether or not they affect owners' decision making. Examples of banned practices include:

- falsely claiming to be a member of a trade body's code of conduct
- bait and switch advertising - for example, advertising a holiday caravan / lodge that you don't actually have in stock, with a view to getting prospective owners to your holiday park and then selling them a different product
- falsely claiming that a price is only available for a limited time, in order to put pressure on a prospective owner to make an immediate decision

Unlike the other commercial practices, there is no transactional decision test applied to banned practices.



CONSEQUENCES OF GETTING IT WRONG

It is a criminal offence to breach the CPRs and can lead to an unlimited fine and/or up to two-years' imprisonment. Criminal enforcement action can be taken by public enforcers, including local authority Trading Standards services and the Competition and Markets Authority (CMA). Trading Standards services and the CMA can also take injunctive action under the Enterprise Act 2002, which can include obtaining redress for owners who have been affected by unfair practices.

An important defence to criminal proceedings for traders is to show that the offence was committed despite you having taken all reasonable precautions and exercised all due diligence to avoid the commission of the offence by you, your staff or sub-contractors working for you.

A due diligence system ensures that systems and procedures are in place

to avoid breaking the law, and checks and audits are in place to ensure that these systems are working and are up to date with current law and your business practices. Systems in place will include:

- checking all marketing material for compliance, with clear rules for who is responsible for local and national advertising, including information on your website and social media
- ensuring all contractual documentation complies with the law
- training all staff to ensure that your business meets its legal requirements. You should also keep records of staff training
- having a clear complaints procedure, including retaining records of any complaints received and action taken to rectify the issue raised, and to prevent it from occurring again

Owners may be able to take civil action if they have agreed a contract



with you as the result of a misleading or aggressive action. The remedies available to them within the CPRs are:

- the right to 'unwind' the contract within 90 days from when the goods are first delivered or when the performance of a service begins. This means that an owner purchasing a holiday caravan / lodge from you would be entitled to reject it and claim a full refund if you have misled them into making a purchase
- the right to a discount. This would apply if the 90-day period has passed; a court would decide the appropriate discount based upon the seriousness of the breach

An owner may also be able to claim damages where they have suffered financial losses as a result of your use of a misleading or an aggressive action. These damages may include compensation for any alarm, distress and physical inconvenience or discomfort, caused by a misleading or aggressive practice.

FURTHER INFORMATION

Further information on the CPRs can be found in '[Consumer protection from unfair trading](#)'.

Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013

The CCRs apply to most on-premises, off-premises and distance contracts between traders and owners. The Regulations set out pre-contract information you should provide to prospective owners before they enter into a contract with you. This information should be clear and easy to understand. The CCRs also set out the cancellation periods for distance and off-premises contracts. They ban the sole use of premium-rate helplines for owners contacting you in connection with a contract, and also ban negative option practices, such as the use of pre-ticked boxes to sell additional products.

TYPES OF CONTRACT

It is important that you know the type of contract you are entering into to ensure that you are giving prospective owners the right to cancel (if you are entering into distance or off-premises contracts). We assume that most contracts for the sale of holiday caravans / lodges will be made on-premises, for which there is no legal requirement to give a right to cancel, although you may choose to offer this. However, we will describe all three types of contract

and give examples of how they might apply to your sector.

OFF-PREMISES CONTRACTS

These are contracts that are concluded with the owner away from your business premises - for example, in the owner's home. Whether a contract concluded at a show or exhibition is classified as off-premises will depend on the circumstances of each case. An important consideration would be whether the average consumer would see the stand as being a place where the trader carries out their activities on a usual basis, and whether they would expect to be sold goods and/or services if they visited the stand.

If you have any doubt, seek further advice on the exact circumstances of the contracts that you are entering into.

DISTANCE CONTRACTS

These are contracts negotiated and agreed exclusively by one or more organised means of distance communication, such as over the telephone or email or via your website, and without any face-to-face negotiation with the owner.

ON-PREMISES CONTRACTS

These are contracts that are not off-premises or distance contracts and will include contracts entered into on your park.

Practical examples of contract types		
Transaction	Type of contract	Explanation
Customer agrees to purchase a holiday caravan / lodge on your holiday park. The contract documentation is signed on site	On-premises contract	The contract has been agreed on business premises
Customer purchases a holiday caravan / lodge over the internet. They do not visit your holiday park	Distance contract	The contract has been agreed exclusively by means of distance communication
A customer visits your holiday park and views holiday caravan / lodges. They do not make a decision on the day but do so later after various phone calls and emails. To help them out, one of your staff takes the paperwork to them and both parties sign the paperwork in the customer's home	Off-premises	The important point is where the contract was concluded. In this case it was in the owner's home
A customer visits your holiday park and views holiday caravans / lodges. They discuss their options and prices with your sales staff whilst on your holiday park but can't make up their mind which one to purchase. Once they have made up their mind the documentation is emailed to them, and they sign it electronically	On-premises contract	Although the contract was agreed virtually, the initial negotiations were face to face and, therefore, the contract was not made exclusively by means of distance communication

INFORMATION REQUIREMENTS

All types of contract are required to provide pre-contract information about your business and what you are selling. This includes:

- details of the holiday caravan / lodge (and/or other goods supplied)
- your identity, geographical address and telephone number
- total price
- any delivery or installation charges
- payment arrangements
- your complaint-handling policy, if you have one
- a reminder that you are under a duty to sell goods that conform with the contract
- details of any after-sales services and guarantees
- the duration of the contract (most likely this will relate to the pitch licence agreement)

All of this information has contractual force and may not be changed by you without the customer's express agreement. If you are entering into off-premises or distance contracts, you must give additional information, including information about owners' right to cancel (how long the period is, how they can cancel and their rights if they do).

CANCELLATION RIGHTS

The normal cancellation period for most off-premises and distance contracts starts the day after the

contract was made and ends 14 days after the day that the owner takes possession of the goods. Bearing in mind the time between agreeing the contract and siting the holiday caravan / lodge, this could be quite a long period and the owner would be able to cancel their order in the period without any penalty.

Getting this wrong can have severe implications for your business; entering an off-premises or distance contract without giving the appropriate cancellation information can extend the cancellation period by up to one year. It is also a criminal offence to enter into an off-premises contract without providing the required cancellation information.

FURTHER GUIDANCE

This is a complex area of law and if you are using, or planning to use, off-premises or distance contracts you must seek further guidance. You can also find more detailed guidance, including information on contracts that are exempt from the requirement to give a right to cancel, in three separate Business Companion guides:

- [‘Consumer contracts: on-premises sales’](#)
- [‘Consumer contracts: off-premises sales’](#)
- [‘Consumer contracts: distance sales’](#)

Consumer Rights Act 2015

The CRA sets out consumers’ rights when they buy goods, services or digital content from a trader. Although this guide focuses on the sale of a holiday caravan / lodge, owners’ rights will be the same when they buy any goods from you. The rules are the same when an owner buys a pair of flip flops from your shop as they are when they buy a holiday caravan costing £75,000.

Owner’s rights regarding services will also be relevant to your business where you may charge for carrying out modifications, servicing a boiler or installing decking, so these will also be covered in this guide.

More detailed guidance on the CRA can be found in [‘Sale and supply of goods’](#) and [‘Supply of services’](#).

Owners’ rights when buying goods from you

An owner buying a holiday caravan / lodge from you, or any other goods, has a number of rights.

THE GOODS MUST BE OF A SATISFACTORY QUALITY

Goods must be of a standard that a reasonable person would regard as satisfactory. In assessing quality, all relevant circumstances must be considered, including price, description and your (or the manufacturer’s) advertising. Quality is a general term, which covers a number of matters, including:

- their state and condition
- fitness for all the purposes for which goods of that kind are usually supplied
- appearance and finish
- freedom from minor defects
- safety
- durability

A holiday caravan / lodge is a complex and expensive item. Therefore, its price and age will be important factors in deciding whether a particular problem means that it is not of satisfactory quality. How long after purchase that the fault occurs may also be relevant; you cannot be held liable for faults that are down to fair wear and tear or misuse by the owner.

An owner cannot complain about faults that were brought to their attention before the sale or were obvious if they had taken the opportunity to examine their holiday caravan / lodge before the sale.

The goods must be fit for a particular purpose made known

When an owner indicates that goods are required for a particular purpose, or where it is obvious that goods are intended for a particular purpose and you supply them to meet that requirement, the goods should be fit for that specified purpose.

This would apply when the owner has used the expertise of your staff

to help them select the right holiday caravan / lodge for their needs; perhaps they have a disability and have asked for guidance about their planned use.

This shows the importance of staff training. Sales staff should not be answering questions when they are not competent to answer. They may make a sale from doing so but may also leave your business open to a potential breach-of-contract claim, which, as you will see below, may mean that owner can reject their holiday caravan / lodge and claim a full refund.

THE GOODS MUST MATCH THE DESCRIPTION, SAMPLE OR MODEL

The holiday caravan / lodge must match any descriptions that were made prior to purchase. If you say the model has underfloor heating it must have this; if you say that it meets the residential-use standard for construction (despite being supplied for holiday use), this must be so. You will also be responsible for marketing material, produced by the manufacturer, that you hand to an owner.

If an owner has been shown a carpet swatch, or a tile sample, then what they buy must ordinarily be the same as the sample they have seen. Similarly, if an owner has viewed a display model of the holiday caravan, what they are delivered



must ordinarily be the same. This requirement is subject to any variations that the prospective owner is made aware of (and to which they agree) before they are committed to the purchase.

A transparent and fair contract term, which is clearly explained to the owner before they become committed, may also allow minor changes to specification as long as it does not affect the suitability of the product or conflict with any points that have been expressly agreed.

GOODS MUST BE INSTALLED CORRECTLY

Goods must be installed correctly if installation is part of the contract. Therefore, if you are siting a holiday caravan / lodge, or installing decking, you will be responsible for any faults that you have caused. Remember you are also responsible for the actions of sub-contractors who deliver these services on your behalf.

Remedies when goods rights are breached

As can be seen below, an owner's remedy when their rights are breached will depend upon how long they have owned the holiday caravan / lodge or other goods.

SHORT-TERM RIGHT TO REJECT

The short-term right to reject goods lasts for 30 days. The period does not start until the owner has taken possession of their holiday caravan / lodge. However, the short-term right to reject does not apply if the only breach is that the goods have been installed incorrectly, in which case their remedy is the right to a repair or replacement. It is possible that incorrect siting of a holiday caravan / lodge may also lead to faults with the holiday caravan / lodge itself, which will also mean the unit is not of satisfactory quality and they will have a short-term right to reject for that breach.



If the owner asks for or agrees to a repair or replacement during this initial 30-day period, the period is paused so that the owner has the remainder of the 30-day period or seven days after they receive their replacement or the repair has been completed (whichever is longer), to check whether the repair or replacement has been successful and to decide whether to reject the goods.

When an owner rejects a holiday caravan / lodge, they can claim a full refund (which can include the return of items handed over in exchange or part-exchange, or their trade-in value if you no longer have them). A refund must be given without undue delay and in any event within 14 days of you agreeing that the owner is entitled to a refund.

REPAIR OR REPLACEMENT

When there is a breach of contract, but the owner has lost or chooses not

to exercise their short-term right to reject goods, they will be entitled in the first instance to claim a repair or replacement.

Where a repair or replacement is claimed, you must do this at no cost to the owner, within a reasonable time and without causing significant inconvenience.

The owner cannot choose one of these remedies above the other if the chosen remedy is either impossible or disproportionate compared to the other remedy. Also, once the owner has chosen a remedy, they must give you a reasonable time to provide that remedy.

The remedies fail if, after just one attempt at repair or replacement, the goods still do not meet the necessary requirements. The owner does not have to give you multiple opportunities to repair or replace, although they can do so if they wish.

The remedies also fail if they are not provided within a reasonable time and without causing significant inconvenience to the owner.

In either case, where repair or replacement fail, the owner is entitled to further repairs or replacements, or they can claim a price reduction or the final right to reject (see below). The same rule applies if both repair and replacement are impossible or disproportionate from the outset.

PRICE REDUCTION AND THE FINAL RIGHT TO REJECT

If a repair or replacement is not available, is unsuccessful or is not provided within a reasonable time and without significant inconvenience to the owner, then they can claim a price reduction or reject the goods.

A price reduction must be an appropriate amount, which will depend on all the circumstances of the claim. It can be any amount up to the whole price.

If the owner rejects the goods, they are entitled to a refund. This refund may be reduced to take account of any use the owner has had from the goods. No deduction can be made where goods are rejected within six months of supply, except where the goods are a motor vehicle. There is no clear guidance as how to calculate usage, but any calculation must be fair to the owner.

This can have major implications when a holiday caravan / lodge is involved and is a real incentive to repair faults properly and promptly. You may be reliant on the manufacturer to achieve this but remember that the owner's contract is with you and any delay you suffer is unlikely to be relevant to the owner's rights to a full or partial refund, except in exceptional circumstances that are entirely outside your control.

ADDITIONAL COMPENSATION

In addition to the remedies outlined so far in this guidance, owners may also be able to claim compensation for losses that have been incurred. These losses might include the cost of any lost holiday-let income, compensation for damage to their property in the holiday caravan / lodge or for personal injury.

THE BURDEN OF PROOF

If the owner chooses repair, replacement, price reduction or the final right to reject, and if the defect is discovered within six months of delivery, it is assumed that the fault was there at the time of delivery unless you can prove otherwise - for example, obvious signs of misuse. This rule is often known as the 'reverse burden of proof', as it reverses the normal rule that a person making a claim must prove each aspect of that claim.

If more than six months have passed, the owner must prove that the defect



was there at the time of delivery. They must also prove that the defect was there at the time of delivery if they exercise their short-term right to reject goods. Some defects do not become apparent until quite some time after delivery, and in these cases it is enough to prove that there was an underlying or hidden defect at that time.

The burden of proof for any additional compensation (see above) will always be on the owner.

TIME LIMITS FOR COURT ACTION

Owners can expect their holiday caravan / lodge not to fail prematurely. However, there is a time limit that eventually prevents owners from making a claim through the courts.

An owner cannot normally bring a claim to court more than six years after the breach of contract (usually the date of delivery in a contract for the sale of goods). In Scotland, the

time limit is five years from discovery of the breach, which is, potentially, a longer period than for the rest of the UK.

Delivery of goods

You should be very clear about delivery times for goods. It may not be possible to specify an exact date for when a new holiday caravan / lodge will be delivered, but it should be possible to give an indication of timescale, along with a commitment to advise the new owner of an actual delivery date as soon as you know it.

“ it is assumed that the fault was there at the time of delivery unless you can prove otherwise ”



Your contract should also contain a right for an owner to walk away from your contract without any penalty if there is an unreasonable extension of the expected delivery period; this includes refunding money they have already paid you.

Clear information about delivery dates and regular updates for your new owner are essential to avoid unnecessary disputes.

Owner's rights when buying services from you

These rights will apply when owners contract directly with you for services, which includes services provided by you as part of their pitch fees as well as other services such as installation or servicing. The contract is with you, so it will not matter whether the work is carried out by you, your staff or sub-contractors.

The service must be carried out with reasonable care and skill

This means that you must, as a minimum, work to the same standard as any reasonably competent person in your trade or profession.

Anything that you have said or written to the owner is binding where they rely on it. This will include quotations and any promises about timescales or the results to be achieved. This again shows the importance of staff training; they should not be making promises that you cannot keep.

THE COST OF THE SERVICE MUST BE REASONABLE

A contract will often specify a price, or it will be clear about how the price will be calculated (for example, an hourly rate). Where the price is not agreed beforehand, the price must be reasonable. Typically, this will be judged against the prices that other similar traders might have charged.

It is best practice to provide your owners with written quotations for any work that you are to carry out for them. These should contain clear information about what will be done and the cost. Any extra work agreed should be subject to a separate written quotation, to avoid any disputes about what was agreed. If a contract is to be made with an independent contractor, even if arranged by you, this must be made clear in the quotation and any contract documentation.

THE SERVICE MUST BE CARRIED OUT WITHIN A REASONABLE TIME

Often, a contract will specify a date or time for the service to be performed or completed. Where there is no agreement about time, the timescale must nevertheless be reasonable. What is reasonable depends on the type of service and all other relevant circumstances.

Remedies when services rights are breached

If you breach the contract for the supply of services by failing to meet the standards required under the CRA, the owner is entitled to a repeat performance of the service or to a price reduction.

REPEAT PERFORMANCE

This remedy is available where you fail to exercise reasonable care and skill or where you breach a requirement arising from information that the owner has been given about the service. The owner can require you to repeat the service in order to complete it properly. This work must be done at no cost to them, within a reasonable time and without causing them significant inconvenience.

The owner cannot ask for repeat performance where it has become impossible for you to complete the service to the required standard.

PRICE REDUCTION

The owner can claim a price reduction where repeat performance



is impossible or cannot be carried out within a reasonable time and without causing significant inconvenience. A price reduction can also be claimed where the service is not carried out within a reasonable time.

The amount of the price reduction will depend on how serious the breaches were and it can be anything up to 100% of the price. If the owner has already paid in full or in part for the service, they may therefore be entitled to some money back.

OTHER REMEDIES

The remedies under the CRA do not take away the owner's existing legal rights, which can include claiming compensation where you fail to meet the standards required by the Act or under an agreed term of the contract.

“Any term that... exclude[s]... an owner's rights is likely to be unfair”

EXCLUDING OR LIMITING AN OWNER'S RIGHTS UNDER THE CRA

Any term that you use in your contract to limit or exclude an owner's rights under the CRA is likely to be unfair and, therefore, have no effect. This would include a term that places the onus on the manufacturer to carry out repairs and for the owner to deal directly with them, or one that attempts to limit an owner's rights to redress. See part 1 of this guide for more information on contract law.

Alternative dispute resolution (ADR)

As a business dealing with owners, you must comply with the Alternative Dispute Resolution (Competent Authorities and Information) Regulations 2015. If a dispute cannot be resolved with an owner and you have a deadlock situation, you must inform them of the following:

- that you are unable to settle their complaint
- the name and address of an accredited ADR entity that would be competent to deal with their complaint

- whether you are obliged or prepared to submit to that ADR entity's procedure (even though the owner will not be bound to submit to ADR or be bound by any ADR decision*)

[*Owners are not obliged to go through an ADR process, and if they do go through one they are not bound by any decision that an ADR entity may make; they can still take you to court.]

You may belong to a trade association that offers and/or requires you to go through their own ADR process, but if this is not an accredited ADR scheme you must still offer the above information as your last step.

Further information about ADR can be found in '[Alternative dispute resolution](#)'.

Part 3. Sales, marketing and entry into contracts

Practical guidance for holiday park owners

Putting it into practice

In this third part of the guidance, we will look in more practical terms at how the law affects your business activities. Prospective owners will need clear information to make an informed decision whether to buy a holiday caravan / lodge from you. The information that you provide should neither mislead them by what you say, nor by what you don't say, nor by how it is presented. Prospective owners should not be subject to pressure selling, which can force them to take a decision that they may not have taken if they had been given time to think through their options properly.

As you will have seen in part 2, the Consumer Protection from Unfair Trading Regulations 2008 (CPRs) will be the principal piece of legislation that we will refer to. Remember that breaching these Regulations is a criminal offence; if a new owner has been subject to a misleading or aggressive practice it could give them the right, within 90 days of purchase, to unwind their contract with you.

The CPRs prohibit five types of unfair commercial practice:

- trading with a lack of professional diligence
- misleading information
- misleading by omission
- aggressive practices
- banned practices

We will apply the CPRs to your sales and marketing information and also to the process of signing a contract with a new owner. Matters that may arise during the lifetime of your dealings with your owner will be covered in part 4.

Sales and marketing information

Your sales and marketing information may take many forms:

- what your staff say to prospective owners or owners
- brochures and printed material
- information on websites and social media
- signage in your park and in the wider local area
- attendance at national and local events

All of these are covered by the CPRs and this will include images as well as words. Remember you can also mislead by what you don't say, so avoiding key facts about your contract during a sales presentation (for example, regarding the prohibition on residential use) could also lead to a potential breach of the CPRs.

INFORMATION ABOUT WHAT YOU ARE SELLING

What you say about the holiday caravans / lodges that you are selling must not mislead. Therefore, the following practices may be more likely to lead to a breach of the CPRs:

- inaccurate information about the holiday caravan / lodge - for example:
 - its age (if pre-owned)
 - its facilities
 - whether it is made to the residential standard (BS 3632: Residential park homes. Specification) or to the standard for holiday caravans for seasonal use (BS EN 1647: Leisure accommodation vehicles. Caravan holiday homes. Habitation requirements relating to health and safety)
- using photographs of the inside or outside of a holiday caravan / lodge that do not represent the unit on sale
- using photographs of pitches, or views from pitches, that do not fairly represent those available to owners
- using representative images that have not been labelled as such and are not genuinely representative of what is on sale
- making unsubstantiated claims that the holiday caravan / lodge is a good financial investment or a good way to make income. If these types of claim are not accurate, clear and fully explained they may be misleading
- falsely claiming that there is only one unit available or that other buyers are interested
- telling a prospective owner, at the point of sale, that you would make an offer to buy back from them



by reference to the Glass's Guide price, without explaining that this would not include any additional amenity value (such as a sea view) that has been included in the sales price but may not be included in your buy-back price

- the use of certain types of so-called 'loyalty discounts'. For example, offering new owners a discount on their pitch fees, which will not apply for a subsequent owner following a private sale, and not making this clear to the new owner. This has the potential to mislead in two ways:
 - the discounted price may not be a genuine price advantage if all new owners pay the lower amount; therefore the Chartered Trading Standards Institute (CTSI) Guidance for Traders on Pricing Practices, which can be found in '[Providing price information](#)', should be considered if using this approach (see table below)
 - the seller and new owner may believe, from a statement in the licence agreement, that subsequent owners will be given no less favourable terms and would not expect an increase in pitch fees

The unavailability of the discounted price to a buyer from the new owner could mean that you are competing unfairly with the owner for the buyer and preventing the owner from

Use of loyalty fees for pitch fees

More likely to comply	Less likely to comply
Discount only offered for a limited period; pitch fees return to original price at the end of this period	Discount offered to all new owners without limitation
Discount only offered for a limited time during main selling season	Discount offered throughout main selling season

exercising their right under the agreement to make a private sale at a market price. For example, if you choose to offer the discounted pitch fee to the buyer only if they agree to buy a holiday caravan / lodge directly from you, you would be undercutting the owner. It is unlikely that the owner would, at the time they are

buying their holiday caravan / lodge, fully understand this risk to their rights if they decide to sell.

INFORMATION REGARDING PRICES

Price information regarding the holiday caravan / lodge should be displayed. This information should be clear and unambiguous. Any fees that the potential owner must pay when they purchase a holiday caravan / lodge must be displayed prominently and clearly labelled as being part of the initial purchase price. Where the level of pitch fees will depend upon the pitch chosen, this must be made clear, and the potential owner must have information regarding what that actual fee will be before they commit to making a purchase. All prices should be VAT inclusive.

CTSI's Guidance for Traders on Pricing Practices (see '[Providing price information](#)') can be used as a source of information when



planning price promotions. We will use the approach used in the CTSI guidance to consider typical promotions that you may use.

USE OF WAS / NOW PRICES

You should consider, amongst other things, the following factors when planning a was / now promotion:

- how long was the unit on sale at the higher price compared to the period for which the price comparison was made?
- how many units were on sale at the higher price and, if you have more than one park, was the unit on sale in the park where the promotion is being run?
- how recently was the higher price offered compared to the price promotion?
- is the price a genuine selling price; have you made sales at the higher price?

Use of price promotions		
Price promotion	More likely to comply	Less likely to comply
Price information on display in a holiday caravan	Display makes clear that additional costs such as pitch fees will be required to be paid. Representative examples of the pitch fees are included	No information regarding pitch fees provided
'Holiday caravans from £25,000'	Price quoted includes other compulsory charges such as pitch fees	Price does not include, or refer to, other compulsory charges such as pitch fees
'Holiday caravans from £25,000'	A significant proportion of the caravans on sale are available for this price, or close to it	There are no other caravans available at the stated price and others available all have prices in excess of £75,000
'Holiday lodge £125,000, including next two years' pitch fees'	Information is also available regarding the level of pitch fees for the next two years, enabling the owner to understand their ongoing future commitment	No information regarding the actual pitch fee is provided
'Holiday lodge £125,000, including free pitch fees for the next two years'	Actual selling price of holiday lodge has not been inflated to cover the pitch fee costs promotion	Lodge selling price has been inflated to cover the cost of the 'free' pitch fees. Despite the offer, making a charge for pitch fees when the new pitch fee year starts
'Was £85,000, now our end of season sale price £60,000'	Both prices relate only to the cost of the unit. Reference is made in the promotion to other compulsory charges	'Was' price included a pitch fee promotion. Now price does not include pitch fees



AFTER-PROMOTION PRICES OR INTRODUCTORY PRICES

Although you can use these types of promotion, they are likely to be considered to be misleading if the price is not increased at the end of the promotion period. You should, therefore, have a clear end date for the promotion and stick to it.

PRICE DROPS

Price drops can, potentially, be aggressive practices if they put undue pressure on a prospective owner to make an immediate decision. If a price drop is to be offered, it is less likely to be aggressive if a prospective owner has time to walk away and consider whether or not to commit. As an example, a lower price could be held open for seven days. Avoid any form of pressure selling.

ASSESSING YOUR PRICE PROMOTIONS

When you have prepared your price promotion material, take a step back and ask yourself:

- will the person who it is aimed at understand what it actually means?
- is any information that I have given false?
- even if the information is factually correct, is it likely to mislead?
- have I missed out any information that the person reading it needs to know?
- has this information been given in a way that is unclear, unintelligible, ambiguous or untimely?

Entering into contracts with owners

It is likely that a prospective owner will enter into two contracts with you:

- sales contract for the purchase of the holiday caravan / lodge
- pitch licence agreement

Quite often these are placed into a single document and accompanied by other relevant information, such as park rules and your improvements policy. It is essential that prospective owners are not overwhelmed by the information that they receive and are encouraged to read through both contracts carefully and ask questions if they are not sure. They might also wish to seek legal advice before committing to their agreements with you.



As described in part 1, your documentation should be user-friendly, clear and unambiguous. Its appearance (for example, very small closely spaced print) should not put prospective owners off from reading it properly, and it should not contain any unfair terms.

Your sales staff should have a clear and comprehensive understanding of the contract documentation and be able to answer any questions, but also refer to senior staff when they are not able to do so or are not sure.

As we indicated at the start of this part of the guidance, the CPRs will also apply to the actual sales process. This is a point where a prospective owner makes a 'transactional decision' whether to deal with your business. At no point should your sales staff mislead them, miss out

key information or put them under pressure to make a purchase.

The following practices may be more likely to lead to a breach of the CPRs:

- giving unclear or incorrect information to prospective owners regarding any aspect of the agreements that they will sign
- not being clear over the rules regarding the prohibition of permanent residency, with prospective owners being given the impression that simply going on holiday for a while, whilst otherwise using their holiday caravan / lodge as their permanent residence, would suffice. Sales staff 'glossing over' these rules during their sales presentation, including by not asking to check documentation proving that the owner has a permanent residential address, may also be misleading

Trading fairly

The CPRs prohibit traders from trading with a lack of professional diligence. Your conduct would be assessed with reference to honest market practices and the general principle of good faith. Industry codes of practice, in particular those that have been approved by the [Consumer Codes Approval Scheme](#), could be a source of reference for assessing what would amount to professional diligence.

In order to trade fairly, a due diligence system (see part 2) should form part of your business operation. This could include:

- regular reviewing of contract documentation to ensure that you are not using unfair terms or misleading owners or prospective owners
- a process for reviewing and approving marketing material with clear protocols set out for your parks regarding local advertising and its approval, and how website and social media content is managed
- regular staff training on the law and the details of your contract
- re-training of staff where you have information (such as a complaint from an owner) that suggests they have not understood your contracts or their legal obligations
- keeping staff training records
- a complaints process that includes keeping records of complaints received and any actions you have taken to improve your systems and ensure compliance with your legal obligations

Part 4. Dealing with holiday caravan / lodge owners

Guidance on the professional relationship holiday park owners have with holiday caravan / lodge owners

The long term

In this final part of the guidance, we will look at matters that might arise during the lifetime of your contract with your owners. As we stated in part 2, your contract should be clear and legible and should not contain any unfair terms. In most pitch licence agreements, both you and the owner are making a long-term commitment to one another. It is important that the owner has a clear understanding of matters that might arise, such as pitch fee increases, unacceptable behaviour, selling or transferring their holiday caravan / lodge, etc. It is in both your and their interest that they have a clear understanding of the implications of what they are signing up to.

Some of the most common issues for both owners and holiday caravan / lodge businesses are explored below.

Standards of behaviour

It is logical, for the benefit of everyone on your park, that standards of behaviour are defined. It is likely that your pitch licence agreement, along with park rules, will set out the behaviours that will be considered to be unacceptable and the consequences if these standards are not met. It is important that the standards of behaviour that you require are reasonable, can be objectively justified and are proportionate to the legitimate aim of ensuring the site remains safe. Any standards set by you should not

be exploited as a means to unfairly terminate a licence agreement.

You should ensure that owners are given a copy of any rules, or procedures, before signing their pitch fee licence agreement. Failure to do this could lead to your rules becoming unenforceable.

Owners should be informed of any changes and the revised rules should also be easily accessible. Owners should not be subject to sanctions unless their failure to comply with the rules is serious and is unlikely to be resolved informally. Any sanctions must be proportionate and not go beyond the remedies that can be legally imposed in law. In particular, if a serious failure can still be remedied, the sanction must include a reasonable opportunity for the owner to do so before their agreement may be terminated.

“The prohibition of lawful comment on social media may... be considered to fail the test of fairness”



To be sure that your standards of behaviour are fair, there should be a clear distinction between those behaviours that are totally unacceptable and those that are capable of being remedied. You should not include behaviours that, although uncomfortable to you, relate to an owner's right to complain to public authorities such as the Police, Environmental Health or Trading Standards services. The prohibition of lawful comment on social media may also be considered to fail the test of fairness, in which case it would not be binding on owners.

Use of threats to terminate a pitch licence agreement for behaviours that might not be considered to be unreasonable, such as raising a formal complaint, could be considered to be an aggressive practice under the CPRs, as well as being unfair; they could, therefore, constitute a criminal offence.



Selling or transferring a holiday caravan / lodge

Your pitch licence agreement will contain terms relating to the sale or transfer of a holiday caravan / lodge. This is likely to include the following options:

- sale of the holiday caravan / lodge to you
- private sale of the holiday caravan / lodge with it remaining on the pitch
- private sale of the holiday caravan / lodge off the pitch
- giving the holiday caravan / lodge to a family member, including following the death of the existing owner

Any term regarding the sale or transfer of a holiday caravan / lodge must be fair. It must also give a clear and understandable explanation of the owner's rights to dispose of their asset, when you must be given first refusal and to what extent you must be involved in the transaction.

Owners should be given clear information on how they can dispose of their holiday caravan / lodge and any costs involved if they use your services to arrange the sale. Any costs you charge, or the way they are to be calculated, should be clearly set out and should be reasonable. You should avoid trying to impose fees that are unfair, such as a fee that is charged even if you do not provide any service in exchange.

You should not use your rights under the agreement to block a sale unfairly. Actions that might be considered to be unfair include:

- not allowing the new owner, following a private sale, to benefit from the same terms and costs under their new pitch licence agreement
- carrying out unreasonable checks on an owner from a private sale - for example, setting more

challenging requirements for them (such as monitoring their use of social media) than you would carry out when making a direct sale to a new owner

- preventing an owner from making a private sale

Termination of your pitch licence agreement

Your agreement will set out the grounds upon which you or the owner can terminate the agreement. It should also be clear about what follows termination, which will include moving the holiday caravan / lodge away from its pitch, moving it off your holiday park and the costs of doing this. It is good practice to make clear to the owner that they have a duty to cooperate with you during this period, and you should allow them a reasonable time to arrange removal.

Your agreement should be clear about length of tenure, how long the owner can stay on the pitch, how long the holiday caravan / lodge can stay on the pitch and the implications of it not being kept in a good state of repair. Any terms regarding this must be fair.

Your agreement should also make clear your right to charge for removal and, to ensure fairness, that a reasonable charge will be made.

Pitch fees

Your pitch licence agreement should contain information regarding pitch fees and what they include or don't include. To avoid a misleading action, this information must be clear and unambiguous.

When you are entering into a pitch licence agreement with an owner you are likely to be entering into a commitment lasting several years. Therefore, it is likely that you will need to revise the pitch fees from time to time. Your owner needs to understand the factors that will lead to a change in the fees, how the variation will be calculated and how they are able to challenge this. This will reduce the risk of the term being unfair and, in particular falling foul of paragraph 14 of the grey-listed terms defined as unfair in the Consumer Rights Act 2015 (CRA), which states:

“14. A term which has the object or effect of giving the trader the discretion to decide the price payable under the contract after the consumer has become bound by it, where no price or method of determining the price is agreed when the consumer becomes bound.”

You should also describe the process whereby the owner can challenge you regarding a pitch fee increase. This should include whether a number of challenges must be received to require you to review your decision, or whether an individual

request can trigger a review. Your terms should make clear how you will carry out this review, how such challenges must be communicated to you and how an owner can take their challenge to an ADR process or to court if you do not agree.

Your terms should also make clear that owners who do not accept the new pitch fee may terminate their contract without being worse off. As stated in part 1, any costs associated with termination will be subject to the test of fairness.

To avoid aggressive practices, under the CPRs, you should not harass owners who are challenging pitch fee rises, nor should you make it difficult for an owner to challenge an increase in court by insisting that they must engage in ADR first.

Owners making improvements to their pitch

It is likely that your pitch licence agreement and park rules will set standards for pitch improvements, to maintain the appearance of your park. As part of this you may set standards for the type and appearance of materials used and the competence of traders used to carry out this work, provided that these standards are objective and proportionate.

One of the grey-listed terms in the CRA is particularly relevant to this; it states it will be unfair if ...

“10. A term which has the object or effect of irrevocably binding the consumer to terms with which the consumer has had no real opportunity of becoming acquainted before the conclusion of the contract.”





This will be relevant if you limit owners, without good reason, to only buying materials for pitch improvements from you and/or only allowing contractors on your own list to carry out any improvement work. This could be considered to be an unfair term because the owner may not be aware of the implications of such a term when they agreed their contract with you. They should have the option to purchase comparable materials elsewhere or select their own contractors who can provide similar documentation, regarding their competence, as that provided by the contractors you have selected. This is particularly relevant when you are adding a commission to the prices and owners may be able find better prices elsewhere.

Complaints

As we have explained elsewhere in this guidance, a diligent business will have a clear complaints process in place. Your complaints procedure should be made available to owners, and you should welcome feedback to help improve your business practices. This should include information regarding:

- who complaints should be made to, including relevant names and contact details
- how the complaints are made - for example, are complaints to be made in writing
- timescales for acknowledging and dealing with complaints
- an acknowledgement that you will respond to complaints that are sent on behalf of owners from professionals such as lawyers, Citizens Advice and Trading Standards
- reference to any code of practice that you belong to

You should ensure that your complaints procedures do not put unnecessary barriers in place - for example, some owners may not feel comfortable with putting their complaint into writing. Whatever your procedures, you should be clear that they can be varied for owners who are considered to be vulnerable. Vulnerable owners may, for example, wish to submit a complaint via an intermediary, such as a member of their family.

It is also good practice to keep records of these complaints, how you have responded, and any lessons learnt, or changes made as a result. You should also comply with the rules regarding ADR (covered in part 2).

Legislation

The laws featured in this guide

KEY LEGISLATION

- [Enterprise Act 2002](#)
- [Consumer Protection from Unfair Trading Regulations 2008](#)
- [Consumer Contracts \(Information, Cancellation and Additional Charges\) Regulations 2013](#)
- [Alternative Dispute Resolution for Consumer Disputes \(Competent Authorities and Information\) Regulations 2015](#)
- [Consumer Rights Act 2015](#)

PLEASE NOTE

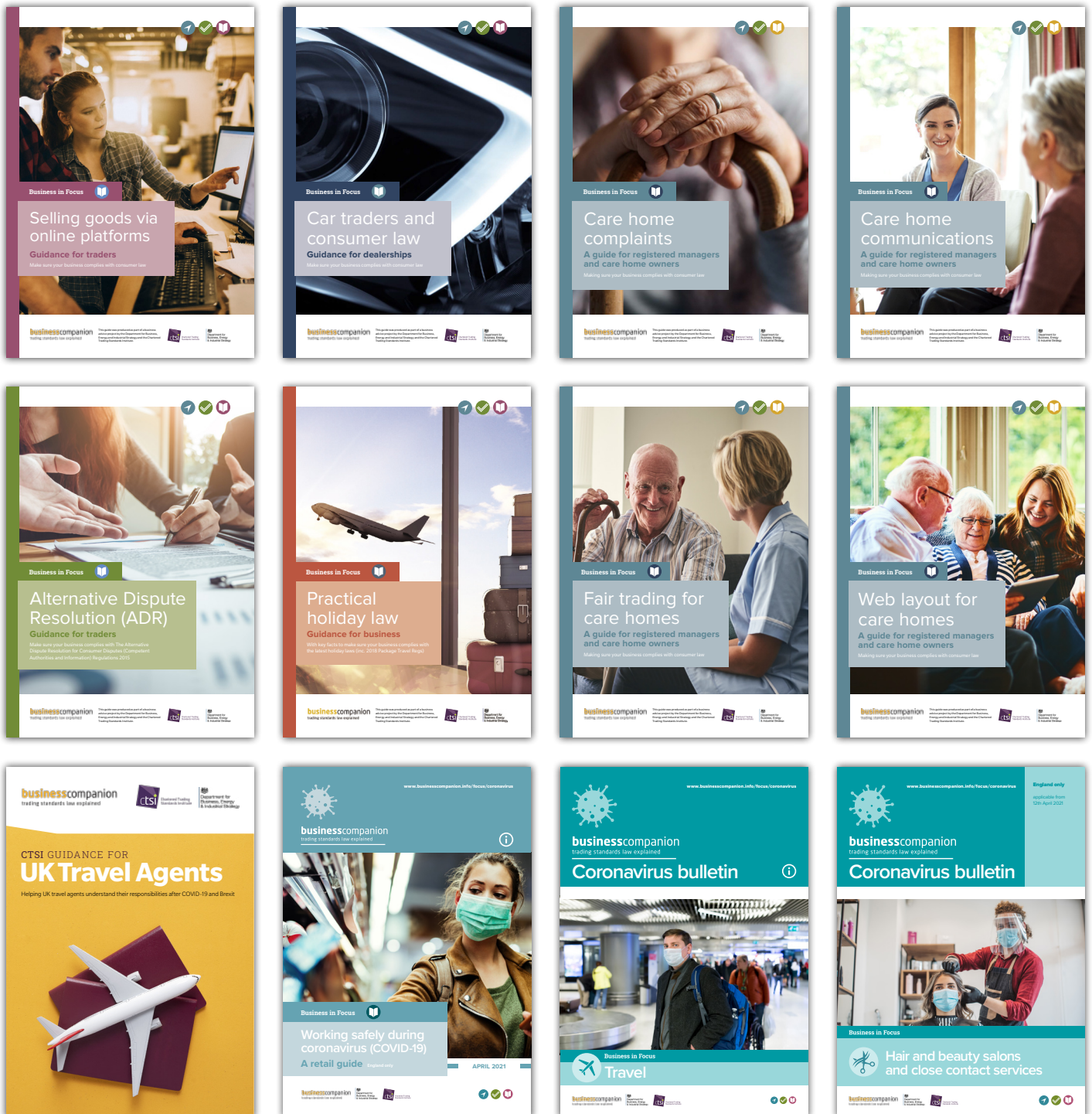
This information is intended for guidance; only the courts can give an authoritative interpretation of the law.

The guide's 'Key legislation' links may only show 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 amendments to legislation can be found on each link's 'More Resources' tab.

New guidance: March 2023

More information

Other guides in this Business in Focus series:





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