

Business websites and the law

Just what do you need to do to ensure that a business website is fully legally compliant? *Ed Harris Hughes* explains

THE PROBLEM

I am having a website created for my catering business and it is due to go "live" in two weeks. The website does not have e-commerce functionality but will allow users to register their details for promotional material. What should I think about in order to make sure the website is fully legally compliant?

THE LAW

Even though the website does not have e-commerce functionality, it will still be subject to the following legislation:

- E-Commerce (EC Directive) Regulations 2002.
- The Data Protection Act 1998.
- Privacy and Electronic Communications (EC Directive) Regulations 2003.
- Disability Discrimination Act 1995.

This means that it must provide a minimum level of information to its users which is easily, directly and permanently accessible. This information should include the name of the business, its e-mail address, its geographical address, the company's registration number and place of registration, its VAT registration number and details of any professional association it is a part of.

As the website contains functionality which allows the company to hold data about identifiable individuals, it will need to be registered with the Information Commissioner as a "data controller" and comply with the provisions and principles of the Data Protection Act to ensure fair use and processing of that personal data.



Users of your website need to know how the data you collect is handled and secured

EXPERT ADVICE

As you will be collecting information about your website users, it is essential that the website includes a privacy statement about the way it collects and uses the data about its users. The privacy statement should typically cover what information is collected from the user and how that data is handled and secured, plus the use of cookies obtained from the user.

Website terms and conditions are imperative for your company in order to protect its interests. They should include aspects

such as acceptance by website users of your use of the information on the website, changes of content, links to other websites, copyright protection and disclaimers and limitation of liability indemnities.

You need to make sure that any intellectual property rights are protected properly – for example, by incorporating a copyright notice and putting express restrictions on copying logos. Make use of your registered trademark symbols and obtain appropriate licences

and consents for the use of third-party material.

If you link to other websites, it's advisable to ensure you have a statement in your terms and conditions that you do not accept liability for the content of any third-party website.

As the company has appointed a web designer to create the site, it is important that the designer agrees in writing to assign any intellectual property rights that arise out of his work on the site. The designer should also give you assurances that the functionality of the site is compliant with the Disability Discrimination Act (DDA).

CHECK LIST

- Register with the Information Commissioner.
- Do your terms and conditions include provisions limiting your liability?
- Do you have a suitable privacy policy in place?
- Is the site DDA compliant?
- Do you have the authority to use any third-party material on your site?
- Have you protected your website by including a copyright statement?

BEWARE

If you do not obtain the copyright in your website from the designer and fail to include statements affirming the copyright, you may not be able to take action against a competitor who copies material from your website.

CONTACT

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The briefing

● Retirement age to be scrapped?

Two of the three main political parties have now pledged to scrap the default retirement age (DRA), should they win the General Election. The Liberal Democrat manifesto promised to remove the DRA entirely to enable older people to work for as long as it suits them. The document follows the Conservative manifesto, which also pledged to abolish the DRA, should they come to power. Labour pledged only to abolish the DRA at

65 – leaving it open-ended as to whether they will remove it or raise it by a few years.

● Holiday ruling will hit recruitment

The majority of small and medium-sized businesses are wary about hiring new staff, following a number of rulings stating that staff on long-term sick leave are entitled to accrue holiday pay, research has revealed. In recent months, two European Court of Justice decisions (Stringer vs

HMRC and Pereda vs Madrid Movilidad SA) and a tribunal ruling (Shah vs First West Yorkshire) have stated that employees should have been allowed to carry holiday entitlement into the following year when they were too unwell to take it. In an ICM poll of more than 1,400 small and medium-sized businesses, commissioned by the Federation of Small Businesses (FSB), 71% said the rulings would affect their recruitment decisions.

● Apprenticeships in danger?

Employers using the popularity of apprenticeships to promote and run their own poor-quality courses could ruin the reputation of the training schemes, the Trades Union Congress (TUC) has warned. Brendan Barber, general secretary of the TUC, said: "The apprenticeship brand has become so strong that there is a danger that unscrupulous employers could piggy-back on the success of genuine schemes by providing second-rate apprenticeships."