



MIND YOUR OWN BUSINESS

This article, written to highlight some of the legislation relating to running a business from home, is one of a series covering business-related legal issues.

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Lime One is a provider of professional legal services to businesses across the UK. Our primary aim is to achieve speedy, cost-effective results that can be accessed without you having to leave your office.

Relevant Law

Business Names Act 1985

Companies Act 1985

Companies Act 2006

The Companies (Registrar, Languages and Trading Disclosures) Regulations 2006 (S.I. 2006 No.3429)

Many successful businesses have started in the home of their owner but, in the excitement of starting to trade, the permissions required and rules to follow can get overlooked. This article is not meant to be a definitive list of everything that relates to a home business. Its' purpose is to guide you to seek out the relevant rules applicable to your home-run business.

Stationery

Some home-run businesses opt not to promote their address on their web site or stationery, you need to consider the law and also the effect that having just a telephone number will have on your reputation. If you choose to ignore the law and not display all the required details are you really giving your business the best chance of success? Are you going to look as credible as your competitors?

A lot of publicity concerning rules regarding all the details that should appear on invoices, business stationery, web sites and letterheads was evident in the business press in early January 2007. A new piece of legislation was in force from the 1st January called The Companies (Registrar, Languages and Trading Disclosures) Regulations 2006 (S.I. 2006 No.3429) which brought changes to existing requirements.

At the time it seemed everyone was asking 'how does it affect my business?' and there were very many different answers. Weighty articles discussing the finer legal points were published in the broadsheets, advisors wrote about criminal penalties and fines of non-compliance to their clients. It all seemed to indicate a massive change in the law at the start of the year.

It was not, in our view a huge change, but the manner in which it was introduced and the timing contrived to make it look more important than it actually was. Most of the requirements were already in other Acts so this little piece of legislation made a larger public impact than it warranted, in our opinion.

The correct answer to your own situation to the question 'how does this new law affect my business?' depends on whether you are a sole trader, a partnership, a limited company or limited partnership under this legislation. Limited partnerships and limited companies were included in the definition of 'company' in the Companies Act 2006 and SI 2006 no 3429 mentioned above.

For companies (i.e. those which are Ltd or LLP), the law changed from the 1st January 2007 and as a result electronic communications as well as written hard copy communications had to show the following:

- A company's name had to appear in its documents. This meant in all business letters, notices, bills of exchange, invoices, receipts and demands for payment etc
- Detailed company particulars, i.e. company's registered office and its company number, had to appear in business letters and order forms.

This meant web sites and emails were included for the first time in the amended legislation that affected companies (Ltd and LLP forms of business).

For the sole trader and partnership who asked these questions of their web sites and stationery, the old law - the Business Names Act 1985 - still applies and will do until it is repealed (currently expected in 2008).

There is a neat guide to the Business Names Act contents at <http://www.companieshouse.gov.uk/about/gbhtml/gbf3.shtml>. This Act also includes requirements for names on premises and includes **all** categories of business (including the LTD and LLP models) with the exception of those trading as their own personal names.

Your business needs and has always needed, if you trade under a name which is not your own personal name, to display all the following on your business stationery:

- the corporate name; or
- the name of each partner; or
- the individual person's name; and
- in relation to each person named, an address at which documents can be served.

And display these details on all

the places where you conduct your business and where you deal with customers or suppliers and;

- business letters;
- written orders for the supply of goods or services;
- invoices and receipts;
- written demands for the payment of business debts.

Moral of this tale? Don't rely on one piece of law to give you all the answers and never assume that you don't have any obligations just because you were not aware of them.

Premises

So, after reading the above we know that the place where you carry on your business has to be shown on business correspondence even if that place is your home and you do not see clients there. The law does not explicitly tell you that in one sentence, but that is what the Business Names Act 1985 requires of you/your business.

You go out, buy the sign and plant it at the front of your garden so people know you are there and assume all is fine. Sadly life is not that simple, you also need to consider things the Business Names Act is silent on, like:

- Planning permission- external signs may require it as will operating industrial machinery or the number of vehicles visiting (e.g. deliveries, agents, collections).
- Business rates- running a business from your home may require a change in rating
- Standard domestic insurance policies routinely exclude business use of part or the whole of your home - you need to ensure that they amend your policy and you are adequately covered.
- Mortgage - many will exclude the use of the premises for business unless you have their permission in writing.
- If a change of use for your outbuildings, garden or home is required, consider tax ramifications on the sale of your home - Capital Gains Tax.
- Tenants also face problems with their landlord if they proceed to run a business from rented accommodation. A landlord's building insurance can be adversely affected so you need permission in writing and also confirmation that all insurance aspects paid by the landlord have been complied with.

- If you store items that may be hazardous you need to be aware of all the legislation regarding their correct storage. Take the case of a small company who had run a dog grooming business from home, at the end of the day they washed out the van with chemicals used to wash the dogs and then run off the waste water into the domestic drains. A neighbour complained and the council immediately served a notice on the business to cease this activity and to store their vehicle elsewhere. This meant an immediate additional overhead to a new business in the first 12 months of trading.

Dealing with clients on issues like these every day we often get asked if it is all worth it. Do I really need to do it properly from day one? If something happened and you needed to claim would you want your insurer, who will send out investigators, to be able to get out of payment as you failed to tell them about your business?

Would you want to start a thriving business from home, sort out your PR and mail shots and then find you had to close it down due to a lack of planning permission? It may not seem a hardship now as it is just you and a laptop but imagine a set-up in a couple of bedrooms, stock, a part-time member of staff and a few phone lines. How quickly could you sort out new premises, move and trade? Would your current pricing structure allow for a number of sudden dramatic increases in your overheads?

The alternatives

PO Boxes have been used to good effect by a number of businesses but for small businesses they tend to give the perception of impermanence or, worse, something to hide. From a marketing perspective some advertisers refuse to accept adverts from PO Box numbers, and all are traceable back to your and your home address. If you give someone else's address a quick online search will show you do not live there and are not on the electoral roll and many customers will move on to the next supplier. Online there is such a choice that all this can be done in minutes.

Virtual office addresses allow small businesses to grow from a solid base, a centralised business address, with add on services such as phone numbers, fax, mail and admin services to support growing businesses. For the cost of just a few hundred pounds per year you can look professional from day one.

Anyone carrying out a Google Earth search on the post code will see a business region and not a suburban housing estate. You've looked at your house from above, don't think others won't.