



Ensuring your enterprise complies with legal requirements



What are legal requirements and why are they important?

Social enterprises are like any other business and they need to comply with minimum legal requirements.

There are certain processes and activities required by law and failure to uphold these can lead to fines, and in extreme cases imprisonment. There is also of course the possible damage to your reputation and brand if you behave in a criminal or negligent way.

Given the importance of compliance, as well as the potential ramifications of failing to comply, it is far better to aim for best practice over and above the minimum standards of the law.

How do legal requirements work?

There are a wide range of laws and regulations that may have an impact on the operation of your social enterprise. Many of them may seem to be intuitive, but legal technicalities require specialist knowledge to ensure adequate controls are put in place for compliance.

The list below is not meant to be a comprehensive or exhaustive list but includes the main issues you should consider and follow up on. There will be many more specific regulations, licenses or policies your enterprise will need to abide by depending on your industry, field or profession.

Common examples of legal issues to consider might include:

- **Trading while insolvent.** This includes fraudulent trading (where a company continues to trade beyond insolvency with the intent to defraud creditors) and wrongful trading (where there is no intent to defraud but where the company directors have continued to trade in spite of the inevitability of insolvency).
- **Operating your business for your customers in an open and fair way.** There are laws and regulations to make sure all companies do this. Some examples are Trading Standards (guides on a huge range of topics to ensure consumers are not misled), Statutory Rights of Customers (for example the expectation that a product is of reasonable quality) and Local Authority licensing of premises.
- **Responsibility of directors or trustees.** If your social enterprise is incorporated (such as a company or a charity) then you will have a group of people making sure that it is run in the way set out in its governing documentation and in as effective and efficient way as possible. Depending on your legal structure, this group of people may be called a board of Directors, Trustees or a management committee. These people have many responsibilities such as ensuring the success of the company, and overseeing health and safety, employment law, tax and company accounts.

Health and safety regulations

There are also a number of Health and Safety Regulations. You must make sure that you, your customers and your staff are safe while they are on your premises. There are some specific rules that must be followed by everyone, such as measures to prevent slips and trips in the workplace. Other rules are specific to certain types of business, for instance the Control of Substances Hazardous to Health (CoSHH) would be applicable to a hospice dealing with clinical waste. See www.hse.gov.uk for more information.

Environmental regulations

There are some environmental regulations and licenses that you may need in order to operate your enterprise, especially if it is a green business or involved in recycling. The Environment Agency is the official organisation that can give you guidance on what you need to do by law.

Examples include:

- Registration for handling hazardous materials for social enterprises engaged in recycling or returning brown field sites to use (reclamation and decontamination).
- Registration for storing, using and disposing of controlled materials. For example, a recycling facility might need a license for the chemicals its uses. A manufacturer of electrical equipment will have to abide by the Waste Electrical and Electronic Equipment Regulations (WEEE).

For users of large amounts of electrical power, there are also wide reaching regulations concerning carbon footprints and energy usage.

Information Communication Technology

You will probably be using Computers and Information Communication Technology (ICT) to run your social enterprise. While these can help you to run your business more efficiently there are laws that control their usage. For instance, you need to:

- Think about keeping the information you have on your staff and customers secure and confidential (Data Protection Act).
- Make sure you have paid for all of the software you are using (software licensing) and use computer systems you have the right to use (Computer Misuse Act).

The Information Commissioners Office (ICO) will be able to help you with these and any other ICT and data questions you may have.

Regulators and Returns

There are different regulators for different types of companies and organisations. You need to make sure you are completing required forms and returns to the relevant body or bodies governing your business. Here is a list of the main regulatory bodies:

- Companies House
- HMRC e.g. PAYE and VAT regulations
- Charities Commission e.g. public benefit test
- Financial Services Authority (FSA)
- Community Interest company (CIC) Regulator e.g. social impact report

Human Resources

As a responsible business you will want to treat your workers, suppliers and customers fairly. By paying attention to your human resources policies you will be meeting your legal obligations and showing your stakeholders that you are a caring and accountable employer.

There may be other legal requirements or legal concerns you need to be aware of because of the type of business you are in. These might include:

- Criminal Records Bureau (CRB) checks and Independent Safeguarding Authority (ISA) registration if you are working with young people or vulnerable adults.
- If you are a social enterprise being created from a public body (a statutory body such as a local authority or a Primary Care Trust – PCT) you may need to consider the regulations on

European Union State Aid and how this may affect any assets you receive (such as a building) as part of this process.

Things to look out for with legal requirements - checklist

<ul style="list-style-type: none">• Register with the appropriate regulatory body e.g. Companies house, FSA, Charities Commission, CIC Governing body.• Contact HMRC if you employ other people• Even if you are a social entrepreneur operating as a freelancer you need to be registered with HM Revenue & Customs (HMRC)	<input type="checkbox"/>
<ul style="list-style-type: none">• Talk to your Local authority about:<ul style="list-style-type: none">- Obtaining any permits/licenses and planning permission- Whether you need to pay business rates	<input type="checkbox"/>
<ul style="list-style-type: none">• Register with HMRC for VAT if you have a turnover of £68,000 or more a year	<input type="checkbox"/>
<ul style="list-style-type: none">• Get the necessary insurance, such as Professional indemnity, public liability, employer's liability and any other specific insurance needed.	<input type="checkbox"/>
<ul style="list-style-type: none">• Look out for Common commencement dates (CCDs): A number of key government departments such as HMRC and Companies House issue all changes to their regulations twice a year, on 6 April and 1 October. These dates are called common commencement dates (CCDs) and they enable you to prepare your business for any changes in regulations.	<input type="checkbox"/>

Further information

Read our guides on Legal Structures:

www.blondon.com/SocialEnterprise/Legalstructures/SELegalStructures.aspx

Read our guide on Becoming a green business:

www.blondon.com/SocialEnterprise/Operations/Compliance/Greeningyourbusiness.aspx

Read our guide on Planning for sustainability:

www.blondon.com/SocialEnterprise/Operations/Planning/Planningforsustainability.aspx

Visit the Acas website:

www.acas.org.uk

Visit the UK Intellectual Property Office:

www.lpo.gov.uk

Visit the Companies House website:

www.companieshouse.gov.uk

Visit the Financial Services Authority website:

www.fsa.gov.uk

Visit the Charity Commission website:

www.charity-commission.gov.uk

Visit the HM Revenue and Customs website:

www.hmrc.gov.uk

Visit the Health and Safety executive website:

www.hse.gov.uk

Visit the Environment Agency website:

www.environment-agency.gov.uk/business/default.aspx

Visit the Information Commissioners Office website:

www.ico.gov.uk

Visit the Criminal Records Bureau (CRB) website:

www.crb.homeoffice.gov.uk

Visit the Independent Safeguarding Authority website:

www.isa-gov.org.uk

Visit the Department for Business, Innovation and Skills website:

www.berr.gov.uk