

Northamptonshire-based BEB Consultancy works with the British Pest Control Association, providing member benefits for members.

Kerry Gibbs, a legal account manager at BEB Consultancy, said that the firm always makes it clear to business owners that terms and conditions should be the first legal document that you put in place when you start a business.

"Without having that document in place," she said, "you open yourself up to a range of different problems. If you're very clear in your terms and conditions what your processes are, then there is little chance for disputes arising."

Ms Gibbs said that many businesses contact BEB Consultancy, perhaps not when they first start, but when they have been trading for a while and they think it's now time to invest in getting their terms and conditions professionally written.

She said: "It might be that they've had problems, or they've added new businesses or services. Quite a lot of the time, business owners will say to us that the last time they got terms and conditions, they copied them.

"They copied them from a competitor, or maybe someone they worked with before, or they found them on a website, or used a template. We're constantly trying to encourage people not to use templates and to not just copy them from somebody else. If you're pulling them off from a similar business, it's not going to protect you the way that having them written tailored to your business will. It's dangerous, you may not be able to rely on them in

Consumers have the right to a 14-day cooling off period



Hazel Napier

The importance of terms and conditions

More than 75 delegates took part recently in the latest BPCA webinar, which featured presentations from BEB Consultancy around business contracts and terms and conditions. **Simon King** reports



court and they could be illegal. It's so important to remember that no two businesses are the same, even though you might be in the same industry."

CONSUMER RIGHTS

Hazel Napier, BEB Consultancy operations director, spoke about consumer law in relation to working for domestic customers.

"If you're dealing with domestic customers, it's very important that you state the statutory right to their cooling off period," Ms Napier said. "Consumers have the right to a 14-day cooling off period in which they can cancel the contract for any reason.

"If you don't state that in your terms and conditions, they get an automatic right to extra rights.

FORCE MAJEURE

Force Majeure is a standard clause that is in every set of terms and conditions that BEB Consultancy produces.

She said: "You have probably heard a lot about Force Majeure recently during the pandemic as many businesses have been looking to rely on that clause. Force Majeure

is Latin for 'Superior force' – it means that if there's an 'Act of God' that's preventing you from doing or completing your obligations under contract, then you might be able to rely on Force Majeure.

"If there was a fire or flood, then the contract cannot be completed, for example. With what's happened with COVID-19, you could argue that a building that has shut down due to a health risk or health hazard, but you need to remember that a high proof threshold is needed to rely on a Force Majeure clause."

PROFESSIONAL IMAGE

Ms Gibbs added that terms and conditions help to project a professional image, instilling confidence in your customers – citing examples of contracts being awarded on the basis of a good set of terms and conditions.

She said: "They looked more in control – and the customers felt confident that the business was going to do what it said it was going to deliver."

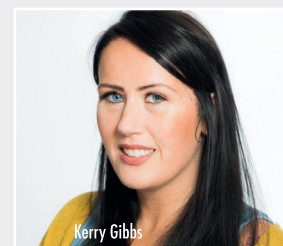
Beware, however, that terms and conditions are not always enforceable – known as the 'battle of the forms'

SEABORNE FREIGHT (UK) LIMITED

During her presentation, Ms Gibbs highlighted the terms and conditions used by Seaborne Freight (UK) Limited, which won a £13.8 billion contract with the Government, to run a ferry service between Ramsgate in Kent and Ostend in Belgium

Ms Gibbs said: "The company became well-known because not only did it not have any ferries, but it had copied and pasted its terms and conditions from a pizza delivery company.

"The business ended up losing the contract, but to us, this is not unheard of – while this was on a massive scale and it hit the press, it does happen a lot. I read terms and conditions that someone has sent over to me and it'll mention things that are not relevant to them at all. I think it shows you are really unprofessional."



Kerry Gibbs

"If you are sending over a proposal, you'll attach your terms and conditions and your client accepts," she said. "Sometimes they might come back with a purchase order, on which, in very small print, it will say: 'subject to our terms and conditions'. While you might think that your terms and conditions are the ones that are governing your contract, it's not always the case.

"If you ever get a purchase order for goods and you've sent terms and conditions, make sure it doesn't say anywhere on there that it's their terms and conditions that are in force.

"They might have onerous terms, things like 90-day payment terms, which is too long to be waiting to be paid."