

# RESPONSIBILITY IF THINGS GO WRONG (LIMITING OR EXCLUDING LIABILITY)

## AT-A-GLANCE GUIDE

EXPLAINED

Terms which allow you to remove or limit your liability to your customers when you are at fault and things go wrong are likely to be unfair. This includes terms that prevent or hinder your customer from seeking “redress” (eg compensation) when you are at fault.



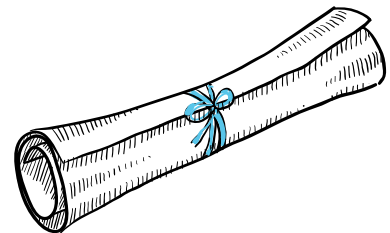
The law singles out terms that take away or reduce your customer’s “**statutory rights**”. These terms can be described as being “blacklisted” because they are never enforceable against your customers.

## WHAT ARE STATUTORY RIGHTS?

Key statutory rights include that:

- goods must match the description given to them,
- be of satisfactory quality and fit for a particular purpose and
- services must be carried out with ‘reasonable skill and care’.

For more information about what your customer’s statutory rights are (including those relating to digital content) and detail on blacklisted terms see [Part 4 of the CMA’s main guidance](#).



## TIPS FOR WRITING **FAIR** TERMS

For example, your terms are more likely to be fair if:



- Your liability for loss or harm is excluded or limited *only* where you are not at fault.
- You do not put in place barriers that stop customers seeking redress (eg compensation).



**MAKE SURE YOUR TERMS RESPECT YOUR CUSTOMER’S “STATUTORY RIGHTS”. DON’T USE TERMS THAT TAKE THEM AWAY OR REDUCE THEM.**

# TERMS THAT MAY BE UNFAIR INCLUDE:

Excluding or limiting your liability for any injury caused to your customer (or their death) which is your fault.



**EXAMPLE: ||** *...equipment is used entirely at customers' own risk. ||*

Excluding or limiting your liability for failing to perform your obligations.

**EXAMPLE: ||** *Management reserves the right to suspend the service without liability. ||*



Excluding or limiting the amount or the availability of your customer's legal remedies (including compensation).

**EXAMPLE: ||** *If we [the business] are at fault, we accept liability up to the value of the goods only. ||*

Excluding your customer's right of 'set-off'. (These are terms that don't allow your customer to withhold payment if they have an arguable claim against you under the contract).

**EXAMPLE: ||** *Payment may not be withheld because of any alleged defect. ||*

Excluding or limiting a customer's statutory rights for reduced price goods.



**EXAMPLE: ||** *Claims will not be entertained for 'sale' goods. ||*



Excluding or limiting your liability for delays.

**EXAMPLE: ||** *We accept no loss or liability for any failure to meet the times and dates quoted. ||*

Using guarantee rights that are narrower or weaker than your customer's "statutory rights".

**EXAMPLE: ||** *We will repair or replace (at our option) any item found faulty within three months. ||*



## HAVING CLEAR AND FAIR TERMS IN YOUR CONTRACT WILL

- SAVE YOU TIME
- HELP PREVENT DISPUTES AND REPUTATIONAL DAMAGE
- PROTECT YOUR BUSINESS IF SOMETHING GOES WRONG

## WANT TO KNOW MORE

[Introductory guide](#) – click here for an overview of some of the key things you need to know about unfair terms.

[Individual guides](#) – see our other guides on contract terms that may be unfair.